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Reg No. 2014/219396/07
 VAT Reg No 4480267592
 SIRA Reg No 1152982

PRIVATE AND CONFIDENTIAL

SALE/SERVICE AGREEMENT WITH A DEED OF SURETYSHIP INCORPORATING CESSION OF CLAIMS

BETWEEN

ER LOCKSMITH ENTERPRISES PTY (LTD) REG NO: 2014/219396/07 HEREAFTER (SUPPLIER)

&

TRADING NAME _____ REG NO: _____ HEREAFTER (CLIENT)

SOLE OWNER	PARTNERSHIP	(PTY) LIMITED	CLOSE CORP	TRUST	OTHER
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Registered Name: _____ "the Client" REG No: _____

Trading Name: _____ VAT No: _____

Registered office / Physical Address: _____

Postal Address: _____

Code: _____

Telephone Number: _____ Fax No: _____ E-mail: _____

Type of business: _____ Auditors/Accounting: _____

COMPANY STAMP

Are the Client's latest financial statements available for inspection - YES / NO

Full Names of Owners / Directors / Partners/ Members / Trustees	ID NUMBER	Residential Address (Physical address)	Telephone No. / Cell No.
1.			
2.			
3.			

Have the Company/CC/Partnership issued/signed any Guarantees in favour of other Suppliers - YES / NO

Have the Directors/Partners/Members issued/signed any Guarantees in favour of other Suppliers - YES / NO

If YES, please specify: _____

Account Department Contact Mr/Mrs: _____ VAT No: _____

Bank: _____ Branch Code: _____ Account No: _____

TRADE REFERENCES

Name	Telephone No	Address
1.		
2.		
3.		

Details of property owned by Company/CC/Partners/Proprietor and Directors

Address	Stand No & Township	Estimated Valuation	Bond Holder	Amount of Bond	In whose name is property registered
		R		R	
		R		R	

ANTICIPATED MONTHLY REQUIREMENTS R _____

MAXIMUM CREDIT LIMIT R _____

TERMS & CONDITIONS

- Any order resulting here from shall be subject to the conditions herein unless varied by the Supplier in writing, and these conditions will take precedence over any terms, conditions or stipulations contained in any of the Client's documentation which may be in conflict herewith.
- Prices are those ruling at the date of dispatch of the goods and the Supplier reserves the right to adjust or change any prices at any time and without notice.
- The Client acknowledges that the account is payable within (30) thirty days from date of statement, which date will be the last day of each succeeding month during which a particular delivery/service was made/rendered.
- 3.1. In the event that the account becomes overdue, the Supplier shall be entitled to charge interest on the overdue balance at the maximum rate permitted in law.
- The Supplier has the discretion at all times whether or not to sell/render service to the Client.
- The Supplier's discretion to sell in terms hereof be guided by inter alia the following:
 - 5.1. The availability of stock.
 - 5.2. Timeous receipt by the Supplier of any drawing, designs and specifications that may be required by the Supplier from the Client provided that such drawings, designs and specifications shall be deemed to have been given to the Supplier for the purpose of description only and shall not form part of the contract.
- Time shall not be of the essence of the contract and delivery dates shall be treated as approximate only. Under no circumstances shall the Client be entitled to withdraw from or terminate the contract on account of any delay in delivery or have any claim of any nature whatsoever against the Supplier arising from late delivery.
- The Supplier shall be exempted from and shall not be liable under any circumstances whatsoever for any damages including indirect or consequential damages of any nature whatsoever or any loss of profit or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the Client may suffer as a result of any delay in delivery of the goods ordered.

8. Ownership of the goods sold and delivered to the Client on account shall pass to the Client only when all amounts due by the Client to the Supplier has been paid, notwithstanding delivery of the goods to the Client. Risk in and to the goods shall however pass to the Client on delivery.
9. A signed Job Card with Client Order Number shall constitute prima facie proof that the goods have been delivered/services rendered to and received by the Client in good condition, whether signed by the Client, an employee, an agent or a representative of the Client.
10. Set off shall operate automatically as a matter of law at the moment reciprocal debts between the Supplier and the Client come into existence and independently of the will of the parties and it shall not be necessary for either the Supplier or the Client to specifically raise set off. Upon the operation of an automatic set off aforementioned, the debt shall be mutually extinguished to the extent of the lessor debt with retrospective effect.
11. The Client agrees and acknowledges that in the event of –
 - 11.1. The Client breaching any conditions contained in these conditions;
 - 11.2. The Client failing to pay any amount due and payable on due date;
 - 11.3. The Client suffering any civil judgment to be taken or entered against it;
 - 11.4. The Client causing a notice of surrender of its estate to be published in terms of the Insolvency Act No. 24 of 1936, as amended;
 - 11.5. The Client passing away;
 - 11.6. The Client's estate being placed under any order of provisional or final sequestration, provisional of final winding up, or provisional or final judicial management, as the case may be;

Then the Supplier shall, without detracting from any other remedies which may be available to it, be entitled to summarily cancel the sale of the goods to the Client without notice to the Client and to re-possess those goods sold and delivered by the Supplier to the Client, or to claim specific performance of all the Client's obligations whether or not such obligations would otherwise then have fallen due to performance, in either event without prejudice to the Creator's right to claim damages.
12. Should the Supplier agree to accept the return of goods, the Client shall be liable to pay the Supplier a handling charge of not less than 10% on the invoiced price of the goods so returned. (Subject to damages suffered, the purchase price will be repaid, where applicable by set off against other amounts due by the Client.)
13. In the event of the Supplier or its agents instructing attorneys to collect from the Client and amount owing to the Supplier, the Client agrees to pay all costs on the scale as between attorney and own client, including collection commission and tracing charges.
14. In the event of the Supplier or its agents instructing a Debt Collector to collect from the Client an amount owing to the Supplier, the Client agrees to pay collection commission in accordance with the Debt Collectors Act (Act. 114 of 1998).
15. It is a condition of each sale that the goods are sold as is and without any warranties or representations whatsoever.
16. When the Supplier is required to manufacture or supply goods to the Client's specification and /or drawings, or carries out work according to the Client's instructions, or those of its nominees, the Supplier accepts no responsibility for the efficiency or workability of goods so manufactured or work so carried out.
17. Save as otherwise specifically provided of herein, the Supplier shall not be liable to the Client or to any other person for any damages including indirect or consequential damages of any nature whatsoever or any loss of profit, or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the Client may suffer as a result of any breach by the Supplier of any of its obligations under these conditions or out of any other court whatsoever. The Client hereby indemnifies the Supplier against any claim which may be made against the Supplier by any other person in respect of any matter for which the liability of the Supplier is excluded in terms of the foregoing.
18. The Client 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 if the said Act, notwithstanding that the claim exceeds the normal jurisdiction of the Magistrate Court.
19. The Client nominates as its domicilium citandi et executandi the address reflected on the face hereof under the heading registered office/business physical address, and the surety nominates as his domicilium citandi et executandi the address reflected on the face hereof alongside his name, for service upon them of all notices and processes in connection with this agreement and its implementation.
20. No relaxation or indulgence granted to the Client by the Supplier, at any time, shall be deemed to be a waiver of any of the Suppliers rights in terms hereof, and such relaxation or indulgence shall not be deemed as a novation of any of the terms and conditions set out herein, or create any estoppel against the Supplier.
21. Any agreement purporting to vary or novate the terms of this agreement, or any consensual cancellation, shall not be valid unless reduced to writing and signed by the Client and the Supplier.
 - 21.1. The Client understands that the information given in relation to this agreement will assist the Supplier in determining whether or not to sell/render services to the Client and will be used by the Supplier for the purposes of assessing its creditworthiness. The Client confirms that the information given by it is accurate and complete. The Client further agrees to update the information supplied, as and when necessary, to ensure the accuracy and completeness of the above information.
 - 21.2. The Client hereby authorizes the Supplier or its agents at all times to contact and request information from any persons, credit bureaus or business, including those mentioned under trade references, and to obtain any information relevant to the Client's credit assessment. (To determine the Client's ability to pay for the goods)

- 21.3. If the Client fails to meet its obligations under these terms and conditions of sale, it authorizes the supplier or its agents to record its non-performance with any credit bureau, which information will be available to third parties. The Client further authorizes researching its records at the credit bureau, use new information and data obtained from the credit bureau in respect of details of how the Client has performed in terms of these terms and conditions of sale.
- 21.4. The Client hereby authorizes the Supplier or its agents at all times to furnish information concerning the Client's dealings with the Supplier, including without being limited to, the Client's credit worthiness and defaulting payment to the Suppliers.
22. In these conditions, words importing one gender shall include the other gender, and word importing the singular, shall include the plural (and vice versa)

CESSION OF CLAIMS

23. The Client and Surety hereby jointly and severally irrevocably and in rem suam cede and assign as pledge unto and in favour of the Supplier, all the right, title, interest in and to all claims of whatsoever nature and description and howsoever arising which the Client and/or Surety may now or at any time hereafter have against all and any persons, companies, corporations, firms, partnership, associations, syndicates and other legal personae whomsoever without exception as continuing covering security for the due payment of every sum of money which may now or at any time hereafter be or become owing by the Client and/or Surety from whatsoever cause or causes arising, it being acknowledged that this cession is a cession in securitatum debiti and is not an out-and out cession.
24. Should it transpire that the Client and/or Surety entered into prior deeds of cessions or otherwise disposed of any of the right, title and interest in and to any of the claims which will from time to time be subject to this cession, then this cession shall operate as a cession of all the Client's and/or Surety's reversionary rights.
25. This Cession shall be and remain in full force and effect as a continuing security notwithstanding any fluctuation, or temporary extinction of the Client and / or Surety's indebtedness to the Supplier.
26. For the purpose of giving effect to the foregoing Cession both the Client and Surety hereby nominate, constitute and appoint the Supplier to be its attorney and Agent, in rem suam, with full authority for the Client and/or Surety's name to demand, sue for, recover and receive all sums of money hereby ceded and assigned and with the authority to sign all document on the Client and/or Surety's behalf and in the Client and/or Surety's name in connection with the recovery of the said sums and to give acquitances and receipts for the Client and/or Surety's.
27. The Client and Surety agree that, on request by the Supplier, they shall be obligated to hand over to the Supplier all books of account, contacts, invoices, documents and the like which it may require for the purposes of ascertaining the amounts due to the Client and/or Surety for the purpose of recovery of payment.
28. The Client and Surety shall be obliged to furnish the Supplier with a schedule of all debts due to the Client and/or Surety by its debtors monthly and upon demand. Notwithstanding the foregoing, the Supplier or its nominee shall at all times be entitled to inspect all or any of the Client and Surety's records as the Supplier deems fit. Failure by either party to give effect to a foregoing shall not in any way prejudice the rights of the Supplier hereunder, and the Supplier shall at all times be deemed to have perfected its security in terms hereof.

DEED OF SURETYSHIP

29. The signatory hereto binds himself as surety and co-principal Client in solidum with the Client in favour of the Supplier for the due payment of all amounts which may at any time be payable by the Client to the Supplier from any cause use of action whatsoever and whether acquired by the Supplier by way of cession or otherwise. He further waives the benefits of excussion and division and of the legal exceptions non numeratae pecuniae and non causa debiti and acknowledges himself to be fully acquainted with the meanings of these terms.
30. This surety ship is a continuing surety ship and shall remain of full force and effect notwithstanding any fluctuation in, or temporary extinction of the Client's indebtedness to the Supplier. It may not be withdrawn, revoked or cancelled by the Client without the Supplier's prior written consent. Any consensual cancellation or withdrawal of this surety ship by the Client and the Supplier shall only be valid and effective if reduced to writing and signed by both parties thereto.
31. Any admission of liability by the Client shall be binding upon the surety.
32. A certificate under the hand of any director or manager of the Supplier (whose appointment need to be proved) as to the existence and the amount of the Client'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 more interest accrued thereon and as to any other fact, matter or thing relating to the Client'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 Client and/or the surety in any competent court and shall be valid as a liquid document for such purpose.

CESSION BY SUPPLIER

- 33. Should the Supplier cede its claim against the Client and surety to any third party (“the Cessionary”), then the above Cession of Claims and Deed of Surety ship shall be deemed to have been given by the client and surety to such Cessionary as continuing covering security for the due payment of every sum of money which may at the time of such Cession or at any time thereafter be or become owing by the Supplier and Surety to the Cessionary (whether acquired the Cessionary by way of Cession or otherwise), and such Cessionary shall be entitled to exercise all rights in terms of the Cession of Claims and Deed of Surety ship as if such Cessionary were the supplier hereunder.
- 34. The Client agrees that if one clause is found to be invalid, this invalid clause does not affect the validity of the remainder of the agreement.

1. PRINT NAME: _____ SIGNATURE: _____
(OWNER, PARTNER, DIRECTOR OR MEMBER)

2. PRINT NAME: _____ SIGNATURE: _____
(OWNER, PARTNER, DIRECTOR OR MEMBER)

WITNESSES

1. PRINT NAME: _____ SIGNATURE: _____

2. PRINT NAME: _____ SIGNATURE: _____

SIGNED AT _____ ON THE _____ DAY OF _____ 20 _____

DOCUMENTS REQUIRED WHEN RETURNING THE CREDIT APPLICATION

- 1. VAT Registration Certificate
- 2. CC/Company Registration Certificate
- 3. Copy of Cancelled Cheque/Proof of bank details
- 4. Copy of I.D. Document – All directors/owners/Partners/Members/Trustees