

## APPLICATION FOR CREDIT FACILITIES KEMPSTON TRUCK HIRE

(Prop. Vincemus Investments (Pty) Ltd – Co. Reg. No. 1969/004762/07)

APPLICANT'S LEGAL ENTITY NAME (IN FULL) : \_\_\_\_\_

TRADE NAMES OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:

SOLE PROPRIETOR   
  PARTNERSHIP   
  (PTY) LTD   
  CLOSE CORPORATION   
  LTD   
  TRUST

If a SOLE PROPRIETOR please indicate whether:   
 Married in community of property    
 Married out of community of property    
 Not Applicable

VAT No.: \_\_\_\_\_    COMPANY/CC/TRUST No.: \_\_\_\_\_

NATURE OF BUSINESS: \_\_\_\_\_    DATE BUSINESS COMENCED: \_\_\_\_\_

REGISTERED ADDRESS: \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

POSTAL ADDRESS: \_\_\_\_\_

TELEPHONE No.: \_\_\_\_\_    FAX No.: \_\_\_\_\_    CELL No.: \_\_\_\_\_

ACCOUNTS CONTACT: \_\_\_\_\_    TEL No.: \_\_\_\_\_    EMAIL: \_\_\_\_\_

**NAMES AND ADDRESS OF DIRECTORS/MEMBERS/TRUSTEES/PARTNERS/PROPRIETORS**

FULL NAMES	I.D. No.	RESIDENTIAL ADDRESS	TEL. No.
1.			
2.			
3.			
4.			

**DETAILS OF PROPERTY OWNED AND/OR LEASED BY COMPANY/CC/PARTNERS/PROPRIETORS/DIRECTORS AND SPOUSES**

ADDRESS	STAND No. & TOWNSHIP	ESTIMATED VALUATION	BOND HOLDER	AMOUNT OF BOND	IN WHOSE NAME IS THE PROPERTY REGISTERED

**BANKING DETAILS:**

BANK	BRANCH	ACCOUNT NUMBER

**TRADE REFERENCES:**

NAME	ADDRESS	TEL. No.
1.		
2.		
3.		
4.		

**NAME AND ADDRESS OF AUDITORS:** \_\_\_\_\_

1. I certify that the asset value or annual turnover as referred to in Section 4 of the National Credit Act 34 of 2005 at the time of entering of the agreement and as per Section 5 (2) (b) of the Consumer Protection Act 68 of 2008 at the time of signature is in excess of: (tick applicable blocks)

2. Asset Value:            R1 million    YES     NO             R2 million    YES     NO

3. Annual Turnover        R1 million    YES     NO             R2 million    YES     NO

CREDIT LIMIT REQUIRED: \_\_\_\_\_    PAYMENT TERMS (tick applicable block):    30 DAYS FROM INVOICE     C.O.D

ORDER NUMBER REQUIRED (tick applicable block):    YES     NO

The undersigned accepts the Standard Conditions of Contract on Page 2.

SIGNATURE 1 ..... FULL NAME: .....

SIGNATURE 2 ..... FULL NAME: .....

CAPACITY IN WHICH SIGNED .....

DATED AT ..... ON THIS ..... DAY OF ..... 20 .....

DETAILS TAKEN BY (full name) ..... WITNESS (name & signature) .....

**THE KEMPSTON GROUP**  
(Prop. Vincemus Investments (Pty) Ltd – Co. Reg. No. 1969/004762/07)  
**STANDARD CONDITIONS OF CONTRACT**

**(THIS IS AN IMPORTANT DOCUMENT WHICH, TOGETHER WITH THE STANDARD TERMS OF INDEMNITY DOCUMENT, SET OUT YOUR RIGHTS AND OBLIGATIONS AND MUST BE READ CAREFULLY.)**

**1. DEFINITIONS**

1.1. The "Lessor" means Vincemus Investments (Pty) Ltd trading as Kempston Truck Hire and as Kempston Car Rental.

1.2. The "Hirer" means the persons, natural or juristic, who hire the vehicle and/or whose name appears on the agreement/invoice/delivery note.

**2. HIRE RATES AND CHARGES**

2.1. The Hirer shall pay to the Lessor the charges for hire as reflected on the agreement/invoice/delivery note or quotation and if no rate is reflected or quotation given then at the Lessor's standard rates as may then be applicable.

2.2. In determining the charges the distance travelled by the vehicle (where required) shall be determined by reference to the odometer on the vehicle which, unless the contrary be proved, shall be deemed to be accurate.

2.3. Should the odometers cease to operate efficiently, the Hirer shall immediately notify the Lessor and furnish the Lessor with full particulars in regard to the use to which the vehicle has been put during the period of hire, and the distance travelled shall be reasonably assessed by the Lessor, the decision of the Manager of the Hire Department at the Lessor being final in the case of dispute.

2.4. The Hirer shall not be entitled to any discount or reduction in charges should any amount due by the Hirer to the Lessor not be paid on due date. The Lessor shall have the right to claim interest on any arrear amounts, at the maximum permissible rate of interest as determined from time to time in terms of the provisions of the National Credit Act, No. 34 of 2005, such interest to be reckoned monthly in advance from due date to date of payment.

2.5. The Hirer shall at its own expense apply for and obtain any permits, licenses, certificate, permissions or exemptions which may be required for and in connection with the entry and use of the vehicle on any site or secure premises.

2.6. The Hirer shall be responsible for the payment of all toll fees and for all fines or penalties imposed for any contravention of the law for the period of this Contract in respect of this vehicle.

**3. RENTAL OF VEHICLE**

3.1. The Lessor rents to the Hirer, who hires the vehicle subject to the terms and conditions set out herein, which conditions apply notwithstanding that the Lessor may not be the driver of the vehicle.

3.2. The Hirer undertakes to provide the Lessor with the full names, residential address, postal address and copy of the ID and driving licence of the Hirer and/or the nominated driver and furthermore undertakes that no person other than the Hirer or the duly nominated driver approved of by the Lessor shall drive the vehicle, nor shall the Hirer have the right to sublet the hired vehicle except with the written approval of the Lessor. If such approval is granted by the Lessor, the Hirer shall nevertheless be responsible for the due fulfillment of each and every condition of hire.

3.3. The Lessor shall not be obliged to place another vehicle at the disposal of the Hirer in the event of the vehicle being damaged, stolen or rendered unfit for use.

3.4. The Hirer agrees that in the event of a breach by him of any of the conditions hereof, or should the Hirer fail to return the vehicle to the Lessor upon notice given in terms of clause 3.5 below, or if, in the opinion of the Lessor, any person who drives the vehicle during the period of hire is an inefficient driver or utilises the vehicle in a manner deemed by the Lessor to prejudice its rights and interests then the Lessor shall be entitled forthwith to terminate this contract and to resume immediate possession of the vehicle, without prejudice to its right to claim from the Hirer any loss of rental and/or damages.

3.5. Notwithstanding anything to the contrary contained in this contract, the Lessor shall have the right, in its sole discretion, to terminate this contract of hire on twenty four (24) hours' notice given to the Hirer to that effect. Notwithstanding such termination, the obligations of the Hirer and nominated driver, and the rights of the Lessor, shall continue in full force and effect until the vehicle is returned to the Lessor and the Hirer has complied with all his obligations and paid all amounts due in terms hereof.

3.6. In the event of the Hirer failing to query or dispute in writing such charges levied by the Lessor under this contract within one calendar month from receipt of invoice, then such charges levied shall be deemed to be correct and due and payable. Any certificate issued by a Director or Manager of the Lessor reflecting the amount so payable shall be sufficient and satisfactory proof for the purpose of obtaining judgement against the Hirer.

**4. RISK/REPAIRS/MAINTENANCE**

4.1. The Hirer hereby acknowledges that the vehicle is solely at the risk of the Hirer from the moment it leaves the Lessor's premises and/or the key/remote to the vehicle is handed to the Hirer or his driver until such time as the vehicle and key is returned to the Lessor. The Hirer shall be liable for any damage and/or loss sustained to the vehicle, however that damage or loss is caused and whether or not it is attributable to any fault or negligence on the part of the Hirer and/or his driver.

4.2. Without affecting any of the Lessor's rights in terms hereof, and in circumstances where the Hirer hires a vehicle and insures same, such insurance documents shall be endorsed to record the Lessor as sole beneficiary, and the Lessor's entitlement to all compensation thereunder.

4.3. Save for any damage or defect which has been recorded in writing and signed by both parties, the Hirer hereby acknowledges that the vehicle shall be deemed to have been delivered to him by the Lessor in good order and repair with all its appurtenances in working order and a roadworthy condition and that the radiator, oil and automatic transmission fluid reservoir and petrol tank were properly filled.

4.4. The Hirer shall return the vehicle to the Lessor for lubrications, and service in accordance with the Manufacturer's specifications. Alternatively, and provided the Hirer shall first have obtained the written approval of the Lessor, he shall, at his own expense, have the said vehicle lubricated and services in accordance with the Manufacturer's specifications by a recognised and authorised motor vehicle workshop. In the event of the Hirer's failure to comply with the terms and conditions of this clause, or should any work performed on the said vehicle by a workshop appointed by the Hirer result in damage to the vehicle and/or to the Lessor, or should the vehicle be damaged as a result of being driven with insufficient water, oil or automatic transmission fluid, then the Hirer shall be fully liable for the cost of repair.

4.5. The Hirer agrees that if, when the vehicle is returned to the Lessor, it is necessary to effect repairs thereto, then the Lessor shall forthwith cause the repairs to be effected. The hire of the vehicle shall, however, be deemed to continue until such repairs are completed and the Hirer shall be obliged to continue to pay the basic rental to the Lessor. Should the vehicle be written off or damaged beyond repair and/or stolen and not recovered within 7 (seven) days of the said theft, then the hire shall also continue until receipt by the Lessor of payment of the full assessed amount from the Insurers of the vehicle.

4.6. The Hirer shall not be entitled to effect any repairs to the vehicle without the written authority of the Lessor. Should the Hirer effect any repairs to the vehicle without the Lessor's written authority, the cost of such repairs shall be borne by the Hirer and if the Lessor, in its sole discretion, deems it necessary to effect any further repairs or to rectify any defective repairs on return of the vehicle to the Lessor, then the Hirer shall be liable to the Lessor for the costs thereof.

**5. INDEMNITY**

If the Hirer applies for Vehicle Damage Indemnity and the application is accepted by the Lessor, then the Hirer and his nominated Driver's liability for any damages or loss caused to or by the hired vehicle and, provided that the agreement of hire has been concluded with the Kempston Truck Hire Division, also by the hired vehicle, will, subject to the terms and conditions set out in the Lessor's Standard Terms of Indemnity, and the exceptions recorded therein be reduced after the first amount payable by the Hirer to the extent detailed therein. The Hirer's attention is drawn to the fact that the Hirer will be responsible for the first R40 000.00 of damages or loss unless a different amount is recorded on the agreement / invoice / delivery note or quotation and that no indemnity will apply if any of the Standard Terms of Indemnity are not fully complied with. The Hirer is urged to familiarise himself with all those Terms and the consequences of his or his nominated driver's failure to strictly observe those General Conditions and the Standard Terms of Indemnity. **The Hirer's attention is also drawn to the fact that claims by third parties in respect of damages caused by any vehicle hired from the Kempston Car Rental division are not covered by the Indemnity.**

**6. CLAIMS**

6.1. The Hirer warrants and represents (which warranty and representation has been relied upon by the Lessor) that he or his nominated driver (as the case may be) is properly qualified to drive the hired vehicle in the Republic of South Africa and undertakes to produce to the Lessor whenever required to do so his valid driver's license and valid Professional Driving Permit (whichever is applicable) such license or professional driving permit to be free of any endorsements.

6.2. Neither the Lessor nor any of its officers, employees or agents shall be liable for any loss or damage (including to property left or stored in the vehicle) or any injury or loss of life which may be suffered by the Hirer and/or any third party and/or passenger and whether direct or indirect, consequential or otherwise, arising from the hire of the vehicle, or from any defect in and/or mechanical failure of the vehicle (howsoever arising) and whether such loss or damage results from breach of contract or delict or otherwise (including negligence or gross negligence or the failure of the Hirer to detect defects in or mechanical problems with the vehicle). The Hirer accordingly indemnifies the Lessor and its officers, employees and agents against any claim of any nature whatsoever and howsoever

arising and for any damages or loss which might be instituted against it from or in connection with or pursuant to the hire or use of the vehicle by the Hirer.

6.3. The Hirer undertakes to immediately report to the Lessor any theft or hijacking of the vehicle within 2 hours of the occurrence and to report any accident in which it was involved or any serious breakdown of the vehicle and to co-operate fully with the Lessor in obtaining all the details required for the completion of the Lessor's Standard Accident Report form, including details of the identity and address of witnesses.

6.4. In the event of the hired vehicle being stolen or hijacked the Hirer shall be liable for the reasonable recovery costs, towing and storage costs incurred by the Lessor in recovering the vehicle in addition to any other costs for which the Hirer would be liable in terms of this contract.

6.5. The Hirer undertakes that no articles shall be carried in the vehicle which may cause damage to the vehicle or the upholstery.

**7. GENERAL**

7.1. The Hirer shall under no circumstances drive the hired vehicle beyond the territorial limits of the Republic of South Africa without the written approval of the Lessor.

7.2. The parties hereby consent, in terms of Section 45 of Act No. 32 of 1944 as amended that any Magistrate's Court having territorial jurisdiction over that party, within the Republic of South Africa shall have jurisdiction in respect of proceedings arising under or by virtue of this contract whether in respect of damages or otherwise, even though the subject matter or cause of action would otherwise be beyond such courts' jurisdiction. In the event of it being necessary for either party to institute legal proceedings for recovery of any amounts owing by the other party then the other party shall be liable for all legal costs incurred in such proceedings on the scale as between attorney and client, including the collection commission and tracing fees.

7.3. The Hirer hereby warrants and represents that all statements contained in the credit application or cash ID form are true and correct and that this contract is entered into on the basis thereof. In the event of the Hirer being a firm, partnership, corporations, company, trust, voluntary association or club, then the signatory hereby warrants and undertakes that he is the necessary authority to bind the Hirer to this contract. Should he not have the requisite authority or in the event of the Hirer denying that such authority has been given to him (whether or not such authority was in fact given), then the Lessor shall be entitled in its sole and absolute discretion to hold such signatory liable in his personal capacity for payment of all amounts owing in terms of this contract. The Hirer undertakes to notify the Lessor in writing within 7 (seven) days of any change in ownership of the Hirer's business or, should the Hirer be a company, of any share transactions whereby the majority shareholding is affected.

7.4. Any relaxation, variation or failure to require strict observance of any of the terms or conditions of this contract shall in no way prejudice, or be construed as a waiver of any of the rights of either party unless set out in writing and signed by the Parties.

7.5. The transport of goods and passengers shall be undertaken at the sole risk of the Hirer who shall be solely liable and responsible for any loss of life or injury or damage to any person or property left on or transported in, upon or loaded by the vehicle. The Hirer hereby waives all claims and indemnifies the Lessor in respect of any claim which may be made against the Lessor for damages arising out of the conveyance or transport of passengers or goods on or towed by the hired vehicle.

7.6. The Lessor shall not be responsible, either directly or indirectly, for the loading or offloading of the vehicle and for any damages, including consequential damages, arising from the loading and offloading of such vehicle.

7.7. Any driver, assistant driver or any other person supplied by the Lessor who may drive the vehicle or assist the driver of the vehicle or assist with the loading or offloading of the vehicle, including the equipment operator for the vehicle and/or crane or other equipment accompanying same, shall be under the direct control of the Hirer and shall further be deemed to be an employee of the Hirer and not of the Lessor for the duration of the hire period. The Hirer hereby indemnifies the Lessor against any claims which may arise from the any act or omission, negligent or otherwise, on the part of any such persons.

7.8. For the duration of this Agreement and for a period of 6 (six) months after its termination or cancellation, the Hirer undertakes that he will not, without the Lessor's consent, offer employment to, or employ, whether directly or indirectly or through any associate, associate company, subsidiary or holding company, any employee of the Lessor who is or was employed directly or indirectly in the performance, monitoring and/or supervision of the obligations of the Lessor under this Agreement. In the event of a breach of this agreement, it is agreed that a placement fee equivalent to 10 (ten) percent of the gross annual wages, will be paid to the Lessor.

**8. OPERATOR FITNESS**

8.1. The Hirer warrants and undertakes that:-

8.1.1. He is aware of the requirements of the National Road Traffic Act 93 of 1996 (as amended) and the Administrative Judicium of Road Traffic Offences Act 45 of 1998 (as amended) ("the Acts") and undertakes to comply with them and to ensure that at all times the driver of the vehicle complies with the requirements of the Acts.

8.1.2. He will ensure that the vehicle never carries a load in excess of the legal maximum permissible as per regulations 231 to 243 of the Road Traffic Act 93 of 1996 or any other Law or regulation that may apply (as amended);

8.1.3. In the event of the vehicle becoming unroadworthy he will immediately cease using the vehicle and will notify the Lessor so that the necessary repairs may be carried out. In an emergency situation and where it is not reasonable possible for the HIRER to notify the Lessor of the unroadworthiness of the vehicle then the Hirer, notwithstanding the provisions of Clause 4 above, shall be entitled and obliged to cause the necessary repairs to be undertaken to put the vehicle in a roadworthy condition. The cost of such repairs may be set off against the cost of hire on production of the invoice provided that the repairs were necessary for the roadworthiness of the vehicle and were reasonably incurred. In the case of a dispute between the Lessor and the Hirer regarding repairs, then the decision of the Lessor shall be final.

8.1.4. He will not under any circumstances whatsoever cause any vehicle to be operated in contravention of the Explosives Act 26 of 1956 (as amended), the Fire Brigade Services Act 99 of 1987 (as amended) including any Municipal by-laws promulgated in pursuance thereof, the Hazardous Substances Act 15 of 1973 (as amended), the Nuclear Energy Act 131 of 1993 (as amended) and the Animal Protection Act 71 of 1962 (as amended) and will timely notify the Lessor to enable the parties to ensure compliance with the above laws when he intends or contemplates using any vehicle for the purpose of transporting dangerous goods, as defined therein.

8.2. Should the Hirer breach any of the warranties and undertaking in this clause 8, then the Hirer shall be liable for any loss or damages including consequential loss caused as a result of the breach.

**9. NATIONAL CREDIT ACT**

9.1. The Hirer hereby consents that the Lessor may:

9.1.1. Perform a credit search of the Hirer's record with one or more registered Credit Bureaus when assessing the Hirer's application for credit.

9.1.2. Monitor the Hirer's payment by researching his record at one or more of the Credit Bureaus.

9.1.3. Use the new information and data obtained from the Credit Bureau in respect of the Hirer's future credit applications.

9.1.4. Record the existence of the Hirer's account with any Credit Bureau.

9.1.5. Record and transmit details of how the Hirer has performed and how the account is conducted by the Hirer and its Members.

9.1.6. Disclose to any other creditor of the Lessor or to one or more Credit Bureau any information regarding the creditworthiness of the Hirer, defaults in payment to the Lessor and details of how the account with Lessor is conducted.

SIGNATURE 1 ..... FULL NAME: .....

2 ..... FULL NAME: .....

**CAPACITY IN WHICH SIGNED** .....

DATED AT ..... ON THIS ..... DAY OF ..... 20 .....

DETAILS TAKEN BY ..... WITNESS .....

**DEED OF SURETYSHIP INCORPORATING CESSION OF CLAIMS  
VINCEMUS INVESTMENTS (PTY) LTD AND/OR ITS TRADING DIVISIONS AND KEMPSTON INVESTMENTS (PTY) LTD ("KEMPSTON")**

I, the undersigned:

.....  
(insert full names and identity number of Surety as per the Surety's Identity Document)

Address:

.....  
(insert physical address of Surety)

bind myself as surety and co-principal debtor in solidum, jointly and severally in favour of Kempston, its successors and assigns for and on behalf of:

.....  
(insert full legal entity's name as provided on the credit application) (hereinafter called "the Debtor")

for the due and faithful payment to Kempston of all sums of money as are now or as may become due and owing or payable to Kempston by the Debtor in respect of any obligation present or future, arising out of or in relation to any cause of indebtedness whatsoever and whether such indebtedness be incurred by the Debtor in the Debtor's own name or in the name of any firm or entity in which the Debtor may be trading, either wholly or jointly with others in partnership or otherwise, and whether such indebtedness arises from the hire of vehicle/s or services rendered or goods sold or to be sold or work done or to be done or in respect of indebtedness which may take the place of any novated debt, even if such novation takes place after the termination of this guarantee, including interest, reversed discount, commission, attorney client and collection costs, stamps and all other necessary or usual charges and expenses.

I waive and renounce every benefit and exception which I as surety am or may become entitled to in law, and in particular, (without prejudice to the generality or the foregoing) the benefits of the excussion, division, cession of action and de doubus vel pluribus reis debendi, with the force and effect whereof I am fully acquainted. I shall not be abrogated nor be affected by any other suretyship, guarantee, indemnity or security Kempston may from time to time procure or hold in respect of any transaction, contract, arrangement or agreement that may from time to time be concluded between Kempston and the Debtor and that it is not to be nullified or rendered unenforceable by any indulgence or forbearance on Kempston part granted or extended to the Debtor or to any of the Debtor's customers or others.

It is understood however, that I am at liberty to terminate this my suretyship or guarantee at any time upon giving you notice in writing to the effect that after the service of such notice upon you, this my suretyship shall not be taken to extend to any transaction, contract, arrangement or agreement concluded or entered into by you with the Debtor after the date of service of such notice, but all obligations then existing shall remain of full force and effect.

As additional security for the foregoing suretyship, I hereby cede, assign, transfer and make over in favour of Kempston all my title and interest in and to any sums which may now be owing or which may in future become owing to me by the Debtor from any cause of indebtedness whatsoever and/or in respect of monies lent and advanced to the Debtor by me and I agree to notify the Debtor of such cession to Kempston and authorize you to give such notice, should you so desire.

I select my address set out above as my domicilium/domicilia citandi et executandi ("domicilium") for all purposes in terms of or arising from this suretyship or guarantee, including the services of all notice and process in connection therewith. Any notice or communication to me in terms hereof or pursuant hereto, sent by prepaid registered post to me at my domicilium shall be deemed to have been received on the fourth day after posting (unless the contrary is proved), or if delivered by hand during ordinary business hours at my domicilium shall be deemed to have been received on day of deliver (unless the contrary is proved).

I agree that, at your option, the Magistrates' Court having jurisdiction in respect of my person shall have jurisdiction with regard to any legal proceedings whatever arising hereunder, notwithstanding that the amount of the claim may exceed the jurisdiction of the Court. I further agree that if any legal proceedings are instituted by you in the Supreme Court of South Africa, you shall not be limited to recovering costs on the Magistrates' Court tariff.

I warrant and represent to you that I have received and will continue, while this suretyship remains in force, to receive adequate value for the granting of this suretyship, and as a separate and several undertaking, hold myself liable to Kempston in damages for any loss which you may sustain consequent upon breach of the warranty and undertaking in this clause.

My liability in terms of this suretyship is not subject to any other person being bound as surety or guarantor in favour of Kempston on behalf of the Debtor nor shall the amount of my liability be limited in any way by the credit limit stated in the accompanying credit application.

I shall be liable for and pay on demand all charges and expenses of whatsoever nature incurred by you in securing the performances of my/our obligations hereunder, and securing the satisfaction of your rights in terms hereof, including, without limitation of the generality of the foregoing, all legal costs on the scale between attorney and his own client, collection commission and tracing agent fees. In the event that Kempston institutes any civil proceedings against me arising out of this suretyship, I hereby waive any rights to claim security for costs as provided in terms of the Rules of the Magistrates and High Court Acts. I confirm having read and understood the content of Kempston's credit application and standard terms and conditions which form part of this document and consider it binding on me.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
WITNESS (to sign)

\_\_\_\_\_  
SURETY (to sign)

\_\_\_\_\_  
WITNESS (print name)

\_\_\_\_\_  
SURETY (print name)