

**Loan Agreement**  
**Pre-Agreement Statement**

*in terms of section 92 of the National Credit Act No 34 of 2005*

**You must understand Pre-Agreement Statement disclosures before you accept any specific terms in your Quotation.**

**By applying for a loan, you confirm that:**

- You have not applied for or are currently under administration, provisional or final sequestration or debt review;
- You are not currently over-indebted;
- You are not going through financial difficulty;
- A court has not declared you mentally unfit;
- You have not borrowed any more money or accepted further credit after you first applied for this loan with the Credit Provider;
- All information given is true and correct;
- If married in community of property, it is your responsibility and duty to obtain your spouse's written consent signed by two witnesses to enter into this Agreement and that such written consent has been stored and will be made available, upon request by the Credit Provider at any time;
- If your spouse did not give consent, you understand that the Credit Provider may lay a charge of fraud against you, take legal steps, ratify the Agreement by asking your spouse to provide the required consent, hold you responsible on your own under this Agreement and/or proceed with a claim of unjustified enrichment and/or restitution from the joint estate.
- You have not entered into this Agreement contrary to the law and the Credit Provider has acted reasonably in making an enquiry on whether you have obtained your spouse's consent and in so doing can place reliance thereon.

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## Definitions

**In this Agreement the following words have the meanings as set out in this definition clause.**

**"Act"** means the National Credit Act 34 of 2005, as amended from time to time.

**"Agreement"** means your loan agreement with the Credit Provider, which was recorded and concluded either through electronic channels, or otherwise in writing, or verbally and which includes:

- Pre-Agreement Statement, Quotation, and General Terms and Conditions

**"Annual interest rate"** is the fixed annual interest rate you must pay on any amount of the total loan amount that you still owe (the outstanding balance) in terms of the Agreement.

**"Credit Cost Multiple"** means the Total Cost of Credit divided by the Loan amount.

**"Credit Provider"** is FirstRand Bank Limited, company registration number 1929/001225/06, an authorised financial services provider and registered credit provider with registration number NCRCP20. Its chosen address for legal documents is 4th Floor, 4 Merchant Place, 1 Fredman Drive, Sandton, 2196.

**"DebiCheck"** refers to the mechanism of authenticating your debit order mandate electronically through online banking, at an ATM, on a cell phone (USSD), etc. A mandate means a written, verbal or electronic authority you give, allowing the Credit Provider to debit your bank account.

**"Direct Axis (SA) (Pty) Ltd"**, company registration number 1995/006077/07, an authorised financial services provider who offers the credit life insurance policy. Its chosen address for legal documents is 108 De Waal Road, Diep River, 7800.

**"General Terms and Conditions"** refers to the terms you will receive before concluding the Agreement and together with the Pre-Agreement Statement and Quotation make up the Agreement.

**"Loan amount"** is any loan amount paid to you in terms of this Agreement, upon which interest is calculated.

**"Loss payee"** means the Credit Provider nominated under a credit life insurance policy that applies to this Agreement.

**"Personal/Customer Protection Plan"** or the **"Plan"** is the credit life insurance policy offered, underwritten by the insurer as specified in your credit life insurance policy.

**"Pre-Agreement Statement"** refers to the terms set out in this document as required by the Act.

**"Quotation"** means the quote provided in terms of the Act that sets out the cost of credit, and other information required in terms of the Act.

**"Total Cost of Credit"** means Loan amount, all fees, interest and credit life insurance (if applicable) that will apply to the Agreement, charged in terms of the Act.

**"you or your"** means the person who enters into the Agreement with the Credit Provider.

## 1. Quotations

If your application is successful, you will receive a Quotation containing all costs and other loan information specific to you.

Quotations are valid for 5 (five) business days after the date on which the Quotation is presented in terms of the Act. Once accepted, the Agreement is conditional upon the receipt of required documents. These may include proof of your identity, residential address and income, proof of payment of the initiation fee and proof of credit life insurance policy. The Credit Provider will not pay out the Loan amount before it has received and validated the documents. Should these documents not be received and validated within 5 (five) business days of the Quotation being presented or if the documents do not reflect the information provided at application, or be found to be unsuitable, the Credit Provider may withdraw or recalculate your Quotation.

## 2. Costs of credit (costs related to the Agreement)

You must pay the following costs of credit:

- **Interest** at the fixed annual interest rate set out in the Quotation, which is calculated daily and added to the total loan amount every month on your chosen payment date. The interest rate charged on default amounts will never exceed the interest rate charged on the total loan amount.
- **Initiation fee** for the costs of preparing a new Agreement, which you may:
  - pay upfront and send proof before pay-out of the loan amount; or
  - add to the loan amount and will be charged interest on.
- **Service fee** which is a monthly fee for managing your Agreement. If you enter into the Agreement during the month, a pro rata fee (just the relevant portion) for that calendar month will apply. The monthly fee will be added to the total loan amount. The service fees charged will never exceed the maximum fee in terms of the Act (which fee may be amended from time to time if the Act is amended). You will receive at least 5 (five) business days' written notice if this fee increases.
- **Premiums** for any Personal/Customer Protection Plan you decide to take out, charged monthly.\

## 3. Debit Order Mandate

- Your debit order authorisation is included in your Agreement which will be sent to you. You will also receive a Notice before your first debit order deduction which will set out the charges to be made under your payment authorisation.
- The Credit Provider may use DebiCheck mandates with a maximum collection amount of 1.5 times your instalment amount. Should you have a DebiCheck mandate in place, you agree and authorise the Credit Provider to debit an amount up to the maximum collection amount:
  - If your instalment amount changes as a result of your total cost of credit changing; or
  - In order for the Credit Provider to recover any arrears due by you.

You further agree that:

- Your monthly instalment will be paid in terms of this debit order mandate that you have provided. You authorise the Credit Provider to deduct payments from the bank account your income is paid into;
- You agree that your deduction date will take place on the same day your salary is paid and may change and may be aligned to the date you receive your salary or income. This deduction date may also change to the previous business day where the deduction date falls on a non-business day (Saturday, Sunday and/or official public holiday) and you will not be able to dispute this presentment.
- Subject to what is agreed in this payment authorisation, we will deduct the monthly instalment from your bank account on the deduction date. However, please note that your obligation to repay the monthly

instalment arises 17 (seventeen) days prior to the deduction date. You agree that the Credit Provider may collect your instalment on or after this date upon which the obligation arise.

- If we or your bank are not able to change your deduction date, and your deduction date falls on a non-processing day (like Sunday, or official public holiday) that we or your bank may process the payment on the next business/processing day; and
- If there is insufficient money, we or your bank may track your bank account and deduct the payments due (which includes the instalment and arrear / overdue amounts) once money is available.
- You agree for us or the bank to re-present your instruction at no additional cost to you to ensure that you always meet your payment obligation. This re-presented instruction will be separate but in addition to your current instruction.

#### **4. Credit Life Insurance**

The Credit Provider requires you to maintain credit life insurance to cover your outstanding obligations under the Agreement at any time, and to be nominated as the “Loss Payee” under the policy.

You have the right to waive the Plan offered, and to substitute it with an equivalent credit life policy of your choice. In such a case, the Credit Provider requires documentary proof of the existence of this cover, the details thereof, and that the Credit Provider has been named as a Loss Payee under the policy up to the settlement value of the Agreement (as per Form 23 of the Act). The Loan amount will not be advanced until such time as the Credit Provider has received and are satisfied with the proof provided.

You acknowledge that you have free choice as to the policy, the broker or intermediary and the insurer, and that you have exercised this choice without being coerced or induced.

You also acknowledge and agree that the Credit Provider may pay any unpaid credit life insurance premiums under this Agreement on your behalf and recover such payments from you. Past due interest on such payments might also be charged. The Credit Provider will notify you when the Plan and all cover has ended and cannot be re-instated. All payments received after the Plan has ended, will be allocated to your Agreement.

#### **5. Opting out of marketing**

You have the right to be excluded from any:

- marketing phone calls (telemarketing) by or on behalf of the Credit Provider;
- marketing or customer list sold or shared by the Credit Provider or
- mass email or SMS messages sent by or on behalf of the Credit Provider.

You may exercise your above rights during the application process or at any other time by phoning Customer Care on 0217643404 or by emailing [customerservice@directaxis.co.za](mailto:customerservice@directaxis.co.za).

#### **6. Statement of account**

We will make your free statement available to you quarterly, either by email or post or on of the FirstRand Group platforms which includes, but are not limited to FNB Online Banking and/or the FNB App. You may ask for extra statements, for which you may be charged.

## Loan Agreement General Terms and Conditions

**You must read the General Terms and Conditions with your Quotation and Pre-Agreement Statement.**

***Your application information, the Quotation, Pre-Agreement Statement, General Terms and Conditions and any subsequent confirming SMS/MMS or telephone call of the cost of credit, form the whole Agreement between you and the Credit Provider. If you have chosen the credit life insurance offered, the relevant insurance policy will also form part of the record of the Agreement. No changes may be made to the Agreement unless these changes are agreed to in writing or verbally (voice-recorded and confirmed in writing) or unless the Act allows it.***

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### **1. Other Cost of credit**

**Default administration and collections cost** may be charged when you do not pay any amounts due on time. Default and collections cost include any administration, legal and/or costs and commissions that a debt collection company or attorney may charge in terms of relevant laws.

### **2. Further Payment Arrangements and Allocating your payments**

Your payments first go towards (1) interest then (2) any fees, and then (3) the loan amount.

You further agree that:

- You will notify the Credit Provider should your bank account details change;
- You may cancel the debit order mandate, but the Agreement and the obligations will remain;
- Amounts which have been collected from the account under the debit order mandate cannot be reclaimed if such amounts were legally owed to the Credit Provider;
- That the Credit Provider can deduct the amounts due (instalments, interests, fees, charges and arrear amounts) from your bank account until this credit agreement has been paid in full; and
- The Credit Provider reserves the right to require you to authenticate the DebiCheck mandate sent by your bank to you in order to deduct payments from your bank account before your loan is paid out or during the course of your Agreement. Should you not authorise the mandate, your loan might not be paid out.

If we are allowed to change the debit order or track your bank account to determine when funds are available, we may be able to stop default on your Agreement. Default may lead to legal action or negative credit bureau listings.

### **3. Further information relating to the Credit Life Insurance**

Due to the nature of the Plan and the fact that it only applies to the Agreement, Direct Axis SA (Pty) Ltd has considered the actual risk and liabilities of the Agreement and the likelihood of the events occurring on a Group basis. In this regard, a Plan which is based on your employment status and the benefits (e.g. death, disability, retrenchment, loss of income or inability to earn an income) you can claim for will be offered. The Plan provides cover to settle your outstanding balance of the Loan and provides limited cover for retrenchment, loss of income or inability to earn an income (where applicable). Your cover starts from the date the Loan amount has been paid. Should you miss a payment you will be notified and your cover may lapse.

The monthly premiums may be reviewed annually. The insurer will notify you of any premium changes 31 (thirty-one) days before the premium is changed.

Please note: The insurer has entered into an agreement with Direct Axis SA (Pty) Ltd which authorises Direct Axis SA (Pty) Ltd to sell credit life insurance on its behalf. In this regard Direct Axis SA (Pty) Ltd receives a percentage of the annual premium income as a fee for the services.

The terms, standard exclusions, waiting periods and benefits of your credit life insurance and the contact details of the insurers are detailed in your policy document and/or the Terms and Conditions. Please read your documents carefully.

#### **4. Consolidation Loan**

Where this Agreement is intended to be an agreement in terms of which certain of your existing credit agreements are to be settled and closed by this Agreement (“Consolidation Loan Agreement”), you acknowledge and confirm that:

- You have requested the Credit Provider to utilise the proceeds of your Consolidation Loan Agreement to settle certain of your existing accounts as you specified;
- The Credit Provider will instruct your existing creditors to close such accounts and to terminate any credit facility that may exist under any such agreement however you are responsible for ensuring that these accounts are closed and the facilities are not utilised;
- If the amount paid was insufficient to settle any account, you will pay any shortfall directly to your existing creditors and will communicate with your existing creditors to ensure that the account is then closed and any credit facility on the account terminated;
- You will not incur any further debt on any credit facility that you may have on any of the specified accounts from the date of this Agreement even if your existing creditors do not terminate the facility; and
- Your obligation to repay all amounts owing in terms of this Agreement shall remain unaffected by any act or omission on the part of your existing creditors.

You further agree that the Credit Provider will not be liable for:

- Any claims, loss, damages or liability suffered or incurred by you arising in connection with any fraudulent, unauthorised or mistaken transaction, payment instruction, reversal or error or correction made by your existing creditor listed on the Consolidation Loan Agreement;
- Any cause or event in connection with the Consolidation Loan Agreement outside the reasonable control of the Credit Provider; and
- Any indirect, consequential or incidental loss, damages or liability suffered or incurred in any circumstances whatsoever in connection with services or products supplied by your existing creditor listed on the Consolidation Loan Agreement.

#### **5. Pre-Payment is allowed without penalty**

You may pay any amount you owe in terms of the Agreement even if it is before the date which the payment is due. The Credit Provider will credit each payment made under the Agreement as follows: (1) due and unpaid interest, then (2) any due and unpaid fees or charges, and then (3) the loan amount. Pre-payments made and allocated will not be refunded.

#### **6. Early settlement of the entire amount is allowed**

If you want to pay the total outstanding amount in terms of the Agreement, you must request a settlement amount from us. The settlement amount is made up of the unpaid balance of your loan amount, unpaid interest, plus other fees and charges payable up to the date of settlement. The Credit Provider will give you the settlement amount at no cost within 5 (five) business days from when you request the settlement quotation. The settlement quotation may be given to you: in person, by e-mail, telephone, or other form of electronic communication. The settlement amount quoted must be paid within 5 (five) business days from the date that it was delivered. If you do not pay the settlement amount within 5 (five) business days, the settlement quotation will no longer be valid. The Agreement will continue as normal, and you will need to get a new settlement quotation if you still want to pay up your loan early.

#### **7. Breach**

If you do or fail to do or allow anything that could harm the Credit Provider’s rights or cause any loss under the Agreement, you will immediately be in default of the Agreement. This includes if you pay late or do not pay in terms of the Agreement.

If any payment is late and not received on the deduction date, you must pay extra interest on the arrears at the interest rate in the Quotation.

If you do not pay any amounts due under the Agreement on or before the deduction date, the Credit Provider may start legal action against you to enforce and terminate the Agreement, as allowed for by the Act. This does not affect the Credit Provider’s rights. If you are in default, you will immediately owe the balance of the total loan amount plus default costs that apply in terms of relevant law.

If the Credit Provider decides to enforce the Agreement, the following procedure applies:

We will inform you of your **default** in a NCA section 129(1)(a) notice which will give you at least 10 (ten) business days to do one of the following: correct the default by making payment; refer this Agreement to a debt counsellor to work out and agree a plan with us to bring the payments up to date or refer this Agreement to the National Credit Regulator for debt intervention if you meet the eligibility criteria; or refer this dispute to an accredited Alternative Dispute Resolution Agent, Consumer Court or Ombud with jurisdiction. If you have applied for debt review and it is not finalised within 60 business days from the date you applied for the debt review, the Credit Provider may send a notice ending the debt review (under section 86 of the Act).

The Credit Provider will not start legal action against you unless:

- you have been in default for at least 20 (twenty) business days; and
- at least 10 (ten) business days have passed since delivery of the default letter or notice referred to above (which could be at the same time as the 20 (twenty) days); and
- you have failed to respond to the default letter or have rejected our proposal.

If the Credit Provider terminates the Agreement under section 123 of the Act, the same procedure set out above will first be followed.

You may reinstate any Agreement in default by paying all overdue amounts plus default costs before the Agreement is terminated/cancelled.

## 8. Credit reporting and credit sharing practices

The Credit Provider may share information to the credit bureau about your application, the Agreement and any adverse (negative) information about you (which includes late repayments and legal action taken against you to recover debt). The Credit Provider will give you at least 20 (twenty) business days' notice before reporting any adverse (negative) information about you. The credit bureau may use the information shared with them to create a credit profile and score indicating your credit worthiness.

You may ask any credit bureau at any time to see your credit record and to correct any information that might be incorrectly displayed at the credit bureau (if the Credit Provider cannot show it is correct).

For tracing and collection of debt purposes, we share your personal and credit bureau information with our appointed legal practitioners and/or debt collectors.

We share information with the following credit bureau:

- **Transunion:** phone 011 214 6000 or 0861 482 482 or email [webmaster@transunion.co.za](mailto:webmaster@transunion.co.za)
- **Experian:** phone 011 799 3400 or 0861 105 665 or email [info@experian.co.za](mailto:info@experian.co.za)
- **Xpert Decision Systems:** phone 011 645 9100 or email [info@xds.co.za](mailto:info@xds.co.za)
- **Compuscan:** Phone 021 888 6000

## 9. Complaints and disputes

If you have a question, complaint or dispute about this Agreement or the Plan offered, please first contact Customer Care on behalf of the Credit Provider who will do their best to help you. Please refer to your accompanying welcome letter for contact details.

Should they be unable to help, you can contact:

- **National Finance Ombud Scheme:** phone 0860 800 900 or email [info@nfosa.co.za](mailto:info@nfosa.co.za)
- **National Credit Regulator:** phone 0860 627 627 or email [info@ncr.org.za](mailto:info@ncr.org.za)
- **National Consumer Tribunal:** phone 012 683 8140 or email [Registry@thenct.org.za](mailto:Registry@thenct.org.za)
- **Long Term insurance Ombudsman:** phone 021 657 5000 or email [info@ombud.co.za](mailto:info@ombud.co.za)
- **Information Regulator:** email [POPIAComplaints@infoforegulator.org.za](mailto:POPIAComplaints@infoforegulator.org.za)

You may resolve a complaint by way of alternative dispute resolution in terms of section 134 of the Act. You may also ask the Banking Ombudsman to help you resolve a complaint or dispute.

## **10. Right to apply to a debt counsellor**

You may apply to a debt counsellor to be declared over-indebted under section 86 of the Act. You may apply before the Credit Provider takes legal action against you for any default under this Agreement. The debt counsellor will help you with your application and you will have to pay the relevant fee. They could reject your application in terms of the Act.

If you apply for debt review, you may not apply for or accept any more credit until your application has been rejected or you have settled all your debts under credit agreements as agreed by the court. This means you may not borrow any money, enter into any credit agreement or incur any charges under a credit facility (such as a credit card).

The National Credit Regulator may give you contact details of debt counsellors in your area.

## **11. Certificate of amount due**

The Credit Provider may issue a written notice showing the amount you owe and how it has been calculated.

You agree that the Credit Provider may take legal action based on the amount in the notice, but you have the right to prove to any court that a particular amount is not owing.

## **12. Cession and assignment (transfer) of debt**

The Credit Provider may transfer any of its rights and responsibilities under the Agreement, including the right to collect the amounts due by you as agreed in terms of the debit order mandate. You must continue to fulfil your responsibilities as set out in the Agreement to the person to whom the rights and responsibilities have been transferred.

## **13. Addresses and receiving documents**

You agree that the Credit Provider may send legal notices to the residential address you provide from time to time in writing.

You agree that the Credit Provider may send you other communications, including statements of accounts, to the email address that you provide from time to time. The Credit Provider may assume that you receive any notice or letter five days after it has been posted, or two days after it has been emailed to you. You agree to receive any notice in terms of section 129 by registered email or registered mail at the residential address you provide from time to time.

You must inform the Credit Provider directly about any change of legal name, address, email address, telephone number or other contact details. You must send proof of any change in legal name and/or residential address.

## **14. Changing this Credit Agreement**

The Credit Provider will change this Agreement only where necessary and in accordance with the requirements of the Act. We will give you at least 5 (five) business days' written notice of an intended change.

## **15. Customer and Transaction Screening**

The Credit Provider will do its best to stop and/or prevent any criminal activities including money laundering and terrorist financing. In assisting with this you acknowledge that the Credit Provider:

- May verify (check and confirm) your identity as well as that of any persons related to or acting on behalf of or involved with you at the start of the business relationship and as often as reasonably necessary thereafter.
- Will not willingly and knowingly do business with any person, that appears on any "sanction" list in terms of legislation or in the management of its risk or that is linked to any person that appears on such sanction list, or linked to any restricted countries or the government agencies of such restricted countries. Note that these lists are updated on a regular basis.
- May monitor any transactions, instructions, and recipients and can request/verify further information before acting on an instruction or transaction. This could result in a delay in carrying out the instruction.
- May refuse to carry out any instruction or transaction, and place a hold on any account should it consider necessary.

You agree to assist the Credit Provider to comply with the laws by providing all the information and documents reasonably required from time to time. If you fail to do so or provide false information, the Credit Provider can refuse to enter into a relationship with you, refuse to carry out an instruction or process an instruction and can also end its relationship with you.

PLEASE NOTE: The Credit Provider will not be responsible to you, or any person, or customer for any loss or damage, you or they suffer if any steps mentioned in this clause or anything else necessary to comply with the laws.

## **16. Privacy Term**

Your personal information will be held by entities within the FirstRand Group. To better understand the entities that form part of the FirstRand Group and how your personal information is treated, please refer to FirstRand's Privacy Notice which forms part of this privacy term. The Privacy Notice can be found on our website.

In this privacy term references to "we", "us" or "our" are references to the entities in the FirstRand Group, and all affiliates, associates, cessionaries, delegates, successors in title or third parties (authorised agents and contractors), when such parties are acting as responsible parties or operators in terms of applicable privacy laws, unless stated otherwise. References to privacy related terminology used in this term (such as personal information and responsible party) should also be read as to incorporate any similar terminology used in the jurisdiction in which your personal information is processed.

By accepting this Agreement or by utilising any products or services ("Solutions") offered by us, you acknowledge that in order to:

- Conclude and fulfil contractual terms or obligations to you;
- Comply with obligations imposed by law; or
- To protect or pursue your, our, or a third party's legitimate interests, including offering Solutions that best meet your needs;

your personal information may be processed through centralised functions and systems across entities in the FirstRand Group and may be used for the purposes as set out in our Privacy Policy.

Where it is necessary to obtain consent for processing outside of this privacy term, we will explicitly seek your consent separately.

We want to ensure that you fully understand how your personal information may be used. We have described the purposes for which your personal information may be used in detail in our Privacy Notice. We have also set out further information about accessing, correcting or objecting to the processing of your personal information in our Privacy Notice. We strongly advise that you read our Privacy Notice, given its incorporation into your agreement with us.

For the purposes of this Agreement, the responsible party is the party with whom you are contracting a Solution, as well as other entities in the FirstRand Group, which are listed in our Privacy Notice as responsible parties. For the contact details of these responsible parties, please see our Privacy Notice.

## **17. Other acknowledgements and confirmations**

You confirm that:

- You have reviewed the Quotation, Pre-Agreement Statement and General Terms and Conditions and that you understand and appreciate the costs of credit, risks, rights and obligations that apply to the Agreement;
- your Agreement is subject to the Credit Provider receiving all required documentation from you and this information being true and correct, failing which the Agreement will not come into existence and neither party will have any claim against the other;
- the Credit Provider may cancel the Agreement at any time before the Loan amount has been paid out if it finds out anything that might make it more difficult for you to repay the loan or if the information provided is not true or correct;
- The Credit Provider may contact you on any day of the week in line with applicable laws about any amount you have not paid under the Agreement; and

- Any payment made by you or another would be an acknowledgement of liability for the full outstanding balance.
- This loan is not regulated under the Financial Advisory and Intermediary Services Act 37 of 2002 (“the Act”) and therefore is not afforded the same protection that may apply to the provision of the financial products or services regulated under the Act.

### **18. Leniency**

Where we are lenient and allow you extra time to meet your obligations or decide not to exercise a right it does not change the Credit Agreement (it is not a waiver of our rights). We can insist on the strict application of all our rights at any time. The receipt and acceptance of partial payments does not mean that we have waived our rights in this credit agreement or in the law.