

General Requirements for all Business Entities

1. Entity Registration Documents
2. Copy of Members' ID Documents
3. Bank Reference Letter
4. Proof of VAT Registration
5. Proof of Tax Registration
6. Business Profile

RESELLER APPLICATION
IMPORTANT

• All pages must be completed

• Please ensure that applicant and both witnesses initial every page

BUSINESS DETAILS

Registered Name of Business			
Trading Name of Business			
Form of Business	Public Company <input type="checkbox"/>	Private Company <input type="checkbox"/>	Closed Corporation <input type="checkbox"/>
	Sole Proprietor <input type="checkbox"/>	Trust <input type="checkbox"/>	Partnership <input type="checkbox"/>
			Company registered after 1 May 2011 <input type="checkbox"/>
VAT Registration Number		Date of Establishment of Business	
Registration Number of Business			
Holding Company Name			
Percentage Shareholding			
Name of Subsidiary and Associate Companies			
Scope of Business			
Physical Address			
Postal Address			Code
Registered Address			Code
Telephone(s)		Fax	
Web Site Address		E-mail Address	

DETAILS OF: PROPRIETOR / DIRECTORS / MEMBERS / PARTNERS / TRUSTEES

1. Full Names		ID No.	
SA Citizenship	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, state citizenship and passport number	
Residential Address			Code
2. Full Names		ID No.	
SA Citizenship	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, state citizenship and passport number	
Residential Address			Code
3. Full Names		ID No.	
SA Citizenship		Home Tel. No.	
Residential Address			Code
4. Full Names		ID No.	
SA Citizenship	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, state citizenship and passport number	
Residential Address			Code

BANKING DETAILS

Bank Name		Account Name	
Branch Name		Account Number	
Branch Number		IBAN Number	
Bank Physical Address		SWIFT Code	
Country		Telephone Number	

Authorized Signatory
Initial

Witness Initial

Witness Initial

TRADE REFERENCES

TradeReference 1:	Name of company		
Telephone		Credit Limit	
Monthly Spend	R	Terms	
TradeReference 2:	Name of company		
Telephone		Credit Limit	
Monthly Spend	R	Terms	
TradeReference 3:	Name of company		
Telephone		Credit Limit	
Monthly Spend	R	Terms	
If applicable, list all Sureties, Cession of Debtors, Notarial Bonds, Judgments:			
Business Asset Value as per last AFS			
Annual Turnover as per last AFS			
Have Moratoriums or Offers of Compromise ever been made to any Creditors?		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Account Contact Person + Telephone			
Financial Officers Name + Telephone			

PLEASE NOTE THAT AXIZ RESERVES THE RIGHT TO CONTACT ANY TRADE REFERENCE LISTED ABOVE AND TO VERIFY ANY INFORMATION PROVIDED IN THIS APPLICATION

CONDITIONS OF AGREEMENT OF AXIZ (PTY) LTD

1. INTERPRETATION

In this agreement, unless the context indicates a contrary intention, an expression which denotes any gender includes the other genders, a natural person includes an artificial person and vice versa and the singular includes the plural and vice versa. The following expressions shall bear the meanings assigned to them below and related expressions shall bear corresponding meanings:

- 1.1. **"Agreement"** means the contents of this application (incorporating a deed of suretyship) to be approved as a Reseller of Axiz, these Conditions of Agreement and the credit approval letter which may be issued to the Reseller by Axiz, as may be amended from time to time in writing, including all annexures, addenda, schedules, reports and any special conditions attached to the Reseller's Quotation, as the case may be, all of which shall be signed by or on behalf of the Parties;
- 1.2. **"Applicable Law"** shall mean any of the following South African laws, from time to time, to the extent that the same applies to a Party or the Services (including the performance, delivery, receipt or use of the Services, as applicable and wherever occurring):
 - 1.2.1. any statute, regulation, policy, by-law, directive, notice or subordinate legislation (including treaties, multinational conventions and the like, having the force of law);
 - 1.2.2. the common law;
 - 1.2.3. any binding court order, final judgment or decree;
 - 1.2.4. any applicable industry code, directive, policy or standard enforceable by law;
 - 1.2.5. any applicable directive, policy or order that is given by a regulator.

Notwithstanding, Axiz shall be entitled to institute a claim against the Reseller in whichever country that the Reseller is based or operating if that is convenient to Axiz, and the Governing Law of that country shall apply to that claim.
- 1.3. **"Axiz"** means Axiz (Pty) Limited, a private company incorporated under the laws of the Republic of South Africa under registration number 1989/000907/07, and its subsidiaries or holding company from time to time (as such terms are defined in the Companies Act, 1973) and any entity under its control;
- 1.4. **"Confidential Information"** means any information or data which by its nature or content is identifiable as confidential or proprietary to either Party, or any third Party (including without limitation any end user) and which is disclosed in confidence by the Disclosing Party to the Receiving Party for the purpose of this Agreement;
- 1.5. **"CPA"** shall mean the Consumer Protection Act 68 of 2008, as amended;
- 1.6. **"Credit Approval"** means the granting of credit to the Reseller at the sole discretion of Axiz, and on the terms stated in the credit approval letter, subject to the terms of this Agreement;
- 1.7. **"Effective date"** shall be the date of Signature by the Reseller of this Agreement;
- 1.8. **"End User"** shall mean the Reseller's customer being the end user of the product or service;
- 1.9. **"Intellectual Property"** means all copyright, rights in business names, trademarks, trade names, service marks, patents, designs or inventions as well as all rights to source codes, trade secrets, confidential information, know-how and all other rights of a similar character (regardless of whether such rights are registered or capable of registration) and all applications and rights to apply for protection of any of the same;
- 1.10. **"Order"** means the quotation sent to the Reseller by Axiz, which on acceptance by the Reseller, will be deemed the Reseller's Order;
- 1.11. **"Parties"** shall mean both Axiz and the Reseller, and "Party" shall mean either one of them as the context requires;
- 1.12. **"Quotation"** means the offer by Axiz to supply the Products or Services to the Reseller in accordance with the provisions of this Agreement;
- 1.13. **"Reseller"** means the business enterprise as identified as the applicant, to be appointed as a Reseller of Axiz and whose name appears on this Agreement and Personal Surety document attached hereto;
- 1.14. **"Services"** and **"Products"** shall mean all services and goods as offered by Axiz from time to time, including on the website to Resellers;
- 1.15. **"Signature"** means a hand-written mark or electronic signature as defined in terms of the Electronic Communication and Transactions Act 25 of 2002, as amended;
- 1.16. **"Usage Fee"** shall mean the difference between the original selling price of the Product and the market related value of such Product which shall be assessed and calculated by the relevant Axiz Product Manager.
- 1.17. **"VAT"** shall mean value added tax in terms of the Value Added Tax Act, No 89 of 1991, as amended.

2. RECORDAL

- 2.1. Axiz hereby appoints the Reseller (which hereby accepts such appointment) as a Reseller of its Products and Services on the terms and conditions set forth in this Agreement.
- 2.2. This Agreement shall commence on the effective date, being the date of Signature by the Reseller of this Agreement.
- 2.3. The Reseller warrants that:
 - 2.3.1. it has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under this Agreement and all the documents which are to be executed by it as envisaged by this Agreement; and
 - 2.3.2. nothing contained in this Agreement will result in a breach of any agreement, licence or other instrument, order, judgment or decree of any Court, governmental agency or regulatory body to which it is bound.
- 2.4. By signing this agreement, the Reseller and Surety authorise Axiz to:
 - 2.4.1. contact any trade references and verify any information provided in this application;
 - 2.4.2. perform a credit search on their record with one or more of the registered credit bureaus (as defined in the National Credit Act 34 of 2005, as amended), when assessing this application for credit;

- 2.4.3. engage in ongoing monitoring of the Reseller's behaviour by researching its records at a registered credit bureau;
- 2.4.4. disclose or convey information relating to the Reseller's ability to meet its payment obligations, as well as any other information that may be applicable to credit control companies, banks and other institutions involved in rating credit.
- 2.5. The Reseller agrees that Axiz shall not be held liable for the disclosure of any of this information to such third parties and that no further specific consent shall be required thereto.

3. QUOTATIONS AND ORDERS

- 3.1. All Quotations shall remain valid for a period of 1 (one) day from the date of Quotation as specified in the Quotation or until the date of issue of a new Axiz price list, whichever occurs first.
- 3.2. All Quotations are subject to the availability of Products or Services and the prices quoted are subject to any increase in the cost price, including currency fluctuations affecting Axiz before dispatch of the Products or the commencement of Services.
- 3.3. On acceptance of the Quotation, any terms and conditions accompanying the Reseller's order not agreed to in writing by an authorised representative of Axiz shall be null and void of no force and effect.
- 3.4. No variations to the Order in terms of this Agreement will be binding on Axiz until Axiz has accepted the variation, and sent a revised Quotation to the Reseller confirming the variation in writing.
- 3.5. The Reseller shall pay all additional costs incurred as a result of any act or omission on the part of the Reseller, including suspension of work, modifications of requirements, failure or delay in giving particular requisites to enable work to proceed on schedule or requirements that work be completed earlier than agreed in the Quotation.
- 3.6. Any additional time spent by Axiz as a result of the provisions of clause 3.5 above, shall be charged at Axiz's standard charge rate as stated in the Quotation.
- 3.7. In the event of this Agreement being subject to the provisions of the CPA, the Reseller may cancel or withdraw an order but in such event, Axiz will be entitled to charge a reasonable cancellation fee.
- 3.8. Other than the orders in 3.7, all orders are considered to be firm orders and shall not be capable of cancellation. The Reseller may request a cancellation of an order, cancellation of which will be subject to Axiz's Supplier approving such cancellation.
- 3.9. Software Licences, once ordered are non-returnable.

4. PURCHASE PRICE AND TRADING TERMS

- 4.1. In instances where the Reseller has not been granted a credit facility, the Reseller shall pay the amount on the Order to Axiz, prior to delivery into the bank account of Axiz.
- 4.2. All amounts pertaining to these terms and conditions shall be paid without deduction, set-off or demand, within 30 (thirty) days from the date of the Axiz invoice.
- 4.3. All payments shall be made free of conditions in the currency that the Axiz invoice is generated and shall be inclusive of VAT.
- 4.4. No extension of payment terms will be permitted unless agreed to in writing by a duly authorised representative of Axiz.
- 4.5. Any discount or rebate approved by an authorised representative of Axiz will only be valid and binding if reduced to writing. Discounts and rebates will be forfeited if full payment is not made on or before the due date.
- 4.6. Axiz shall be entitled to invoice separately for each delivery or performance.
- 4.7. A certificate under the hands of any director, manager or secretary of Axiz stating that any particular sum or sums are due and payable by the Reseller to Axiz in terms of this agreement by stating the amount of any costs, charges or expenses taken into account in determining the amount of any claim in favour of Axiz against the Reseller in terms of this agreement shall be admissible in any court of law as *prima facie* proof of the contents thereof and shall constitute a liquid document for the purpose of summary judgment or provisional sentence.
- 4.8. The Reseller shall pay interest at the maximum percentage allowed in law above the publicly quoted basic rate per annum ruling from time to time at which Nedbank Limited lends on overdraft to its corporate clients, calculated monthly, on all amounts owing by the Reseller to Axiz which have not been paid on the due date thereof, reckoned from the due date until the date of final payment, in full. Such interest shall be payable on demand.
- 4.9. The credit limit granted by Axiz to the Reseller may not be exceeded without prior written consent. Axiz reserves the right to change the credit limit at any time without notice and any amount over the credit limit will be supplied on a strictly cash on delivery basis.
- 4.10. Axiz may, at its sole discretion, at any time withdraw or suspend any credit facilities extended to the Reseller.

5. DELIVERY AND PERFORMANCE

- 5.1. Subject to the provisions of the CPA (if applicable) Axiz shall:
 - 5.1.1. be entitled in its sole discretion, to split the delivery of the Products or performance of the Services ordered in the quantities and on the dates it elects;
 - 5.1.2. provide times for the delivery of Products or performance of the Services, which shall merely be estimates and shall not be binding on Axiz, unless agreed to in writing by an authorised representative of Axiz;
 - 5.1.3. deliver the Products to the location stipulated in the Order, or such other location as the parties may agree, within a reasonable period following receipt of the Order or within such other period as shall be specifically agreed in writing;

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- 5.1.4. have the right to engage a third party to transport the Products on behalf of the Reseller, if necessary, and Axiz shall be authorized to engage a third party as the authorized agent of the Reseller, the costs thereof shall be for the Reseller's account.
- 5.1.5. Delivery of the Products shall be completed:
 - 5.1.5.1. on the Products arrival at the delivery location; or
 - 5.1.5.2. on the completion of loading of the Products at Axiz's premises in circumstances where it has been agreed that the Reseller will collect the Products from Axiz.
- 5.2. Any delivery note (copy or original) signed by the Reseller or its authorized agent, shall be conclusive proof that delivery was made to the Reseller.
- 5.3. Signature of the delivery note constitutes *prima facie* proof that the Products and Services delivered comply with the Reseller's Order.
- 5.3.1. If the Reseller fails to take or (as appropriate) accept delivery of the Products, then, except where such failure or delay is caused by a *force majeure* event or Axiz's failure to comply with its obligations under the Contract:
 - 5.3.1.1. delivery of the Products shall be deemed to have been completed;
 - 5.3.1.2. risk in the Products shall pass to the Reseller (including for loss or damage caused by Axiz's negligence);
 - 5.3.1.3. Axiz may store the Goods until the Reseller takes delivery of the Products, whereupon the Reseller shall be liable for all related costs and expenses (including without limitation storage and insurance);
 - 5.3.1.4. any discount or other allowance in respect of the Products, which is or would be otherwise be allowed to the Reseller, shall be forfeited by the Reseller.
- 5.4. In the event of Axiz acceding to any request by the Reseller to postpone delivery of the Products, or in the event of the Reseller failing to give Axiz sufficient information to enable it to process any Order, the Reseller shall pay any costs and expenses thereby incurred by Axiz.
- 5.5. The Reseller agrees that the Products will be offloaded at the nearest accessible point on site. Axiz shall not be held responsible for any damage to the Products caused during the delivery process, arising from any cause whatsoever.
- 5.6. If following receipt of the Order, Axiz is unable to deliver the Products for reasons beyond its reasonable control (including without limitation any restriction or withholding of supply by any manufacturer), Axiz shall be entitled to terminate the Order and Axiz shall have no liability for such termination.

6. IMPORT AND EXPORT COMPLIANCE

- 6.1.1. The Reseller shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties thereon.
- 6.1.2. Unless otherwise agreed in writing between the Reseller and Axiz, the Products shall be delivered FOB the Axiz Warehouse. Any costs of delivery, including all insurance, taxes and duties shall be payable by the Reseller, unless otherwise agreed. Axiz shall not be liable for any loss suffered during the delivery.
- 6.1.3. Axiz and its Supplier's acceptance of any order is contingent upon the issuance of any applicable export license or export certification and Axiz shall not be liable for delays or failure to deliver the Products or Services resulting from the failure to obtain such licence or certification.
- 6.2. The Reseller may also be subject to import or re-export restrictions in the event that it transfers the Products or Services from the country of delivery. The Reseller shall not resell outside the country of delivery, any of the Products covered by the UK Export Control Act 2002 (or any re-enactment thereof) or the Export Administration Act 1979 (as amended) of the USA (or any re-enactment thereof) without obtaining all necessary licences thereunder and will not resell such Products within the country of delivery to a purchaser, knowing (or being given reasonable grounds to suspect) that the purchaser intends to export such Products without first obtaining either such licences or a copy of such licences obtained by the purchaser.
- 6.2.1. The Reseller shall not be entitled to withhold payment of the price for the Products due to the Reseller's failure to comply with the provisions of this Clause.

7. WARRANTIES

7.1. Warranty of Quality

- 7.1.1. No warranties, guarantees or representations, expressed or implied, whether by law, contract or otherwise, and whether they induced the contract or not, which are not set out in this Agreement, shall be binding on Axiz. The Reseller waives any right (common law or otherwise) it may have to rely on.
- 7.1.2. New products carry the warranty in accordance with the manufacturer's product specific warranty.
- 7.1.3. All warranties are immediately null and void if (*inter alia*):
 - 7.1.3.1. any Product has been tampered with or found to be damaged, defaced or altered in any way by the Reseller;
 - 7.1.3.2. the seals on the Product have been broken by anyone other than Axiz;
 - 7.1.3.3. the Reseller has made use of the Products in a way that appears to be inconsistent with the manufacturer's specifications;
 - 7.1.3.4. the Products have been utilised in a way that is not ordinarily used and such use has caused the damage or defect;
 - 7.1.3.5. the defect or damage reported by the Reseller, applies to ordinary wear and tear in respect of the Products;
 - 7.1.3.6. any component(s) have been deliberately removed or found to be missing by Axiz from the Product being returned;
 - 7.1.3.7. any other situation specifically included in the supplier's policies or warranties which may specifically prohibit the Reseller from using it as a reason to return a Product.
- 7.1.4. Notwithstanding the contents of this Clause, insofar as the Reseller enjoys protection under the CPA, the following provisions shall apply in respect of warranties and guarantees:
 - 7.1.4.1. The Reseller may return the Product to Axiz if the goods do not satisfy the requirements of Section 55 of the CPA in which event Axiz shall either:
 - 7.1.4.1.1. replace the failed, unsafe or defective Product within the warranty arrangement; or
 - 7.1.4.1.2. refund the Reseller the price paid by the Reseller (as reflected in the tax invoice) for the defective Product.
 - 7.1.4.2. It is the responsibility of the Reseller to advise Axiz in writing of any specific purpose the Products or Services are intended for. If, after having notified Axiz of this intended use, the Product recommended by Axiz does not fulfil the purpose as stated by the Reseller, the Reseller shall notify Axiz within 30 (thirty) days from the date of purchase of the Product of this failure. Axiz shall then replace the Product or Service with a more suitable solution or credit the Products or Service to the Reseller's account.
 - 7.1.4.3. Where the provisions of the CPA are applicable in respect of the return or replacement of Products, Axiz shall have a right to levy a reasonable Usage Fee in accordance with the provisions of the CPA. Such Usage fee shall be paid by the Reseller to Axiz before the refund or replacement of any Product.

7.2. General Warranties

- 7.2.1. The Reseller warrants that:
 - 7.2.1.1. it procures Products for resale and not for personal consumption;
 - 7.2.1.2. no representations were made by Axiz in regard to the suitability of the Products or Services or any of their qualities, other than those contained herein;
 - 7.2.1.3. neither Axiz nor any of its employees, contractors, agents or suppliers shall be liable for negligent or innocent misrepresentations made to the Reseller;
 - 7.2.1.4. it is the sole responsibility of the Reseller to determine that the Products or Services ordered are suitable for the purposes of intended use;
 - 7.2.1.5. it shall not translate software received into any other computer language or tamper with the binary code which is proprietary in nature;
 - 7.2.1.6. where the end user of the Products or Service is either a foreign government or for export outside the Republic of South Africa or possibly for proliferation activities, it shall immediately disclose such circumstances to Axiz;
 - 7.2.1.7. it shall not supply any Products or Services to end users in high conflict zones or entities with known foreign corrupt practices;
 - 7.2.1.8. it shall not procure Products or Services for export to end users in Embargoed destinations and known terrorist supporting countries; and
 - 7.2.1.9. it shall not procure any Products or Services intended for the use in the design, construction, operation or maintenance of any nuclear facility.
- 7.2.2. The Reseller will ensure continued compliance with all global anti-corruption laws as they relate to themselves and their entire supply chain. Each party will comply with all applicable laws and regulations,

including those governing consumer transactions. Each party is expected to conduct business in strict legal compliance with the highest ethical standards.

- 7.2.3. The Reseller will comply with all applicable laws against bribery, corruption, inaccurate books and records, inadequate internal controls and money-laundering, including the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and the South African Prevention and Combating of Corrupt Activities Act 12 of 2004 ("Anti-Corruption Laws").
 - 7.2.4. The Reseller undertakes to have its own policies as regards the above and further undertakes to provide annual training to its employees who resell, distribute or market the products or services on compliance with Anti-Corruption Laws. The Reseller certifies that this Anti-Corruption training has been provided to its employees and if not, the Reseller agrees to participate annually in Anti-Corruption training made available by Axiz or its suppliers and certifies its completion, understanding and compliance therewith.
 - 7.2.5. The Reseller acknowledges that it is prohibited from paying expenses for travel, lodging, gifts, hospitality or charitable contributions for government officials on Axiz or its Supplier's behalf. The Reseller also acknowledges that it is prohibited from using any funds provided by Axiz or its Supplier, or any proceeds resulting from any Axiz or its Supplier's business, to pay expenses for travel, lodging, gifts, hospitality or charitable contributions for government officials.
 - 7.2.6. The Reseller acknowledges that the Products and Services provided under the Reseller Agreement, (which may include technology, software, authentication and encryption), (1) are subject to U.S. and European customs and export control laws and regulations ("export laws"), (2) may be rendered or performed in countries outside the U.S. or Europe, and (3) may also be subject to the customs and export laws and regulations of the country in which the Products and Services are rendered or received.
 - 7.2.7. For any resale of Products or Services permitted, the Reseller acknowledges that it has exclusive responsibility to comply with the export laws. The Reseller further acknowledges that, under these export laws, Products or Services purchased under the Reseller Agreement may not be sold, leased or otherwise transferred to restricted end users or to restricted countries (as defined by the export laws) and may not be sold, leased or otherwise transferred to, or utilized by, an end-user engaged in activities related to weapons of mass destruction, including but not necessarily limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities or nuclear weapons, missiles or support of missile projects, or chemical or biological weapons.
 - 7.2.8. The Reseller is responsible for ensuring continued regulatory compliance, including but not limited to compliance with electrostatic discharge and radiated emissions standards, for any modifications or additions made to the Products after the Products are delivered. The Reseller is also responsible for obtaining any regulatory compliance marks that may be required to onward ship Products to locations other than the country to which Axiz delivers the Product.
- 7.3. National Credit Act**
- 7.3.1. The Reseller warrants that their aggregate annual sales exceed R1,000,000.00 (one million rand), and that it is a juristic person, whose asset value or annual turnover, together with the combined asset value, or annual turnover of all related juristic persona (at the time this application is completed, signed and accepted), equals or exceeds the threshold value determined in terms of Section 4(1) of the Act, from time to time (and which is currently R1,000,000.00 (one million rand)).
 - 7.3.2. This application and any agreement which arises here from, constitutes a 'large agreement', as defined in Section 9(4) of the Act, in that it constitutes a credit transaction in terms whereof the principal debt equals or exceeds the sum of R250,000.00 (two hundred and fifty thousand rand), and the applicant is a juristic person, the asset value or annual turnover of which is at the time of the completion, signature and acceptance of this application, above the threshold value determined in terms of Section 7(1) of the Act, from time to time and which is currently R1,000,000.00 (one million rand).

7.4. Regulatory Compliance

- 7.4.1. Both Parties must generally act, and must ensure that their directors, officers, employees, contractors and agents act at all times in compliance with the Applicable Law.
 - 7.4.2. The Reseller must in particular comply with the Law related to the protection of personal information of the End User. The Reseller must comply with all applicable legal requirements regarding privacy and data protection and provide sufficient notice to, and obtain sufficient authorisation from End Users and any other party providing personal data to Axiz and its Suppliers to permit the processing of the data by Axiz, its Suppliers and their respective affiliate subsidiaries and service providers as contemplated in this agreement.
 - 7.4.3. Axiz and its Supplier may collect, use, transfer, disclose and otherwise process each End User's data, including personal data, as required in terms of the transactions entered into. The security, privacy and data protection commitments made by Axiz under this Agreement will only apply to the Products purchased from Axiz. Except as the parties may otherwise agree, Axiz shall not provide end user data to a third party, that is a party other than Axiz' Supplier, without the end user's prior consent or in violation of applicable law.
 - 7.4.4. Except as Axiz and the Reseller may otherwise agree, Axiz shall use End User Data only to ultimately provide the End User with the Products and the support services specified in this Agreement. Additionally, Axiz shall only access and disclose to law enforcement or other government authorities to the extent required by law, data from, about or related to the End User, including the content of communications (or to provide law enforcement or other government entities access to such data). If Axiz receives a request for End User data either directly from a law enforcement agency or as redirected to Axiz by its Supplier, then Axiz shall redirect the law enforcement agency to request that data directly from the End User. If compelled to disclose End User Data to law enforcement, then Axiz shall promptly notify the End User and provide a copy of the demand, unless legally prohibited from doing so. The Reseller shall require in its agreements with End Users that, as to and to the extent required by law, the Reseller shall notify the individual users of the Products that their data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities, and shall obtain the users' consent to the same.
 - 7.4.5. The Reseller hereby undertakes and expressly represents to Axiz that it shall, upon commencement of the relevant provisions of the CPA, do everything necessary to ensure compliance by it with the provisions of the CPA in the provision of the Products and Services.
 - 7.4.6. The Reseller warrants that, as at the date of Signature of this Agreement, it is fully cognisant of the Applicable Law, including the legal obligations of suppliers, producers, importers, distributors and retailers as set out in the CPA.
 - 7.4.7. The Reseller warrants that it will neither use misleading trade descriptions nor market, promote or supply any Products or Services in a misleading, fraudulent or deceptive way, whether by the use of exaggeration, innuendo or ambiguity, or fail to disclose a material fact if that failure amounts to a deception or by a failure to correct an apparent misapprehension on the part of the consumer, in respect of:
 - 7.4.7.1. the nature, properties, advantages or uses of the Products or Services;
 - 7.4.7.2. the manner and the price at which Products or Services may be supplied.
 - 7.4.8. The Reseller hereby irrevocably unconditionally agrees to indemnify and keep indemnified, Axiz, on demand, for any and all liabilities, damages, penalties, actions, judgments, costs, expenses or disbursement of any kind whatsoever which may be imposed on, incurred by or asserted against the Axiz in any way resulting from or arising of a breach of any warranty contained in clause 7 above, by the Reseller.
- 8. RETURNS AND REPAIRS**
- 8.1. Axiz operates a returns procedure for Products that fail on installation (DOAs). The DOA returns procedure may vary depending on the manufacturer of the Products and will be notified to the Reseller upon the Reseller notifying Axiz that the Products have apparently failed on installation. Any costs incurred in effecting any return shall be for the Reseller's account.
 - 8.2. Subject to the provisions of the CPA (if applicable):
 - 8.2.1. Axiz and that of its supplier's liability is limited to the cost of the repair or replacement of faulty Products or granting of a credit note to the value of such Products which shall be at the sole discretion of Axiz;
 - 8.2.2. the Reseller shall have no claim under this Agreement unless Axiz has received written notification of the alleged defect, within 7 (seven) days of delivery;
 - 8.2.3. Axiz shall have 30 (thirty) days from receipt of the notice to respond to any claim under this Agreement;
 - 8.2.4. all claims shall be supported by the original tax invoice issued by Axiz in order for Axiz to consider whether such claim constitutes a valid claim; and
 - 8.2.5. any warranty shall not be valid, unless the Reseller returns any defective Product to Axiz together with the original, undamaged packaging material.

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- 8.3. Any repair time or cost estimates given by Axiz to the Reseller shall be estimates only and are not considered binding upon Axiz. Any item handed in for repair to Axiz may be sold to defray costs if such repair items are not collected within 30 (thirty) days of such repair being carried out.
- 8.4. The Reseller shall be responsible for all transportation and insurance costs relating to returned Products. Axiz shall not be responsible for the loss in transit of any Products where the Reseller makes its own arrangements to return the Products to Axiz.
- 8.5. Any Products not meeting these criteria may, at Axiz's discretion, be refused and returned to the Reseller. In addition, a handling fee of 10% of the purchase price reflected on the tax invoice may be levied to the Reseller's account to cover the additional costs involved and the Reseller will be charged for any damage caused to the Products whilst they were in the Reseller's custody or control.
- 8.6. All Products taken by the Reseller on evaluation or approval demonstration shall be deemed sold if not returned within 7 (seven) days from delivery, in perfect condition and in the original packaging, with all accessories and manuals intact.

9. RISK AND OWNERSHIP

- 9.1. The risk of damage to or destruction of any Product passes to the Reseller on delivery thereof by Axiz to the Reseller.
- 9.2. Ownership of the Product shall not pass to the Reseller until payment of the full purchase price has been received by Axiz.
- 9.3. If, before title to the Products passes to the Reseller, the Reseller becomes subject to an insolvency event, or Axiz reasonably believes that any insolvency event is about to happen and notifies the Reseller accordingly, or if the Reseller's right to possession of the Products is terminated, or if any sum due to Axiz is not paid when due, then, provided that the Products have not been resold or irrevocably incorporated into another product, and without limiting any other right or remedy Axiz may have, Axiz may at any time require the Reseller to deliver the Products and, if the Reseller fails to do so promptly, enter any premises of the Reseller or of any third party where the Products are stored in order to recover them.
- 9.4. The Reseller's right to possession of the Products shall terminate immediately if the Reseller becomes subject to an insolvency event. However Axiz, having been informed of the Reseller becoming subject to an insolvency event, may consent in writing (subject to such terms as Axiz may in its sole discretion impose in respect of such consent) to the Reseller's continued right of possession of the Products.

10. FORCE MAJEURE AND LIMITATION OF LIABILITY

- 10.1. The Reseller shall not have a claim against Axiz for any delay or failure of Axiz to carry out any of its obligations under this agreement arising from or attributable to acts of God, war, terrorism, government action, labour action or unrest, failure of suppliers or contractors or any other cause whatsoever beyond the control of Axiz. ("force majeure");
- 10.2. The performance of the obligations of Axiz shall, subject to 10.3 below, be suspended for the duration of the force majeure, which shall be deemed to commence only upon the date of written notice by Axiz to the Reseller. Upon cessation of the force majeure, this agreement shall again become fully operative and Axiz shall immediately resume performance;
- 10.3. If the suspension of performance continues for more than 60 (sixty) consecutive calendar days, then either party may summarily terminate this agreement by written notice to the other party, prior to the cessation of the force majeure;
- 10.4. Any claim by the Reseller against Axiz, howsoever arising shall in the aggregate be limited to the amount reflected on the tax invoice in respect of which the claim relates. In any event, Axiz will not be liable to the Reseller for indirect or special damages, loss of income or profit, howsoever arising whether or not caused by its employees, agents or contractors, and regardless of form or cause of action. The provisions of this clause are also stipulated for the benefit of the employees, agents and contractors of Axiz.

11. INTELLECTUAL PROPERTY

- 11.1. All rights, title and interest in and to all intellectual property relating to any Product or Services owned by either Party to this agreement, their vendors or suppliers and the software used to implement the Products or Services shall remain the sole property of such parties, their vendors or suppliers.
- 11.2. Neither Party shall in any manner alter or effect the display of the respective rights in the intellectual property of the other Party, vendor or suppliers without the prior written approval of the other Party, vendor or supplier.
- 11.3. Where there is a purported breach by the Reseller of the intellectual property provisions recorded herein, Axiz reserves the right to seek *inter alia* an appropriate order from any court of law for interim and final relief.

12. BREACH AND TERMINATION

- 12.1. If the Reseller:
 - 12.1.1. is in material breach of any terms or conditions of this agreement and fails to remedy the breach within 7 (seven) days after written notice thereof; or
 - 12.1.2. commits an act of insolvency within the ambit of the Insolvency Act, No 24 of 1936 (as amended) ("the Insolvency Act"); is deemed unable to pay its debts within the ambit of the Companies Act No 71 of 2008 (as amended) ("the Companies Act"), alternatively any provision of the Close Corporations Act No 69 of 1984 (as amended) ("the Close Corporations Act"), as the case may be, finds himself in circumstances capable of being wound up in terms of the Companies Act, alternatively the Close Corporations Act, as the case may be; is deregistered or applies for deregistration in terms of the Companies Act; alternatively the Close Corporations Act, as the case may be; or is subject to application by a person other than a Party for the provisional winding up or business rescue proceedings of such Party, or a special resolution is passed for the winding up of such Party; or
 - 12.1.3. has judgment taken against it and fails to satisfy or apply to have same set aside within 7 (seven) days of becoming aware thereof; or
 - 12.1.4. without the prior written consent of the other Party, undergoes a change in its shareholding or member's interest so that a new person owns the majority of its voting share capital or member's interest.
- 12.2. Upon the occurrence of any of the above-mentioned events, Axiz shall be entitled at its election and without prejudice to enforce specific performance and recover such damages as it may have sustained.
- 12.3. In the event of Axiz instructing its attorneys or collection agency to collect any overdue amounts or enforce any other provisions of this Agreement, all tracing, collection charges and legal fees as between attorney and client shall be for the Reseller and Surety's account.

13. DOMICILIUM AND NOTICES

- 13.1. The Reseller and Surety choose their *domicilium citandi et executandi* as the Reseller's physical address reflected on the first page of the Reseller Application for all purposes with respect to court process, notices, documents or communication.
- 13.2. Axiz chooses its *domicilium citandi et executandi* as: Axiz (Pty) Limited, International Gateway Business Park, corner New Road and Sixth Road, Midrand, Gauteng, Attention: Financial Director.
- 13.3. Either party may change their *domicilium citandi et executandi* on 7 (seven) days written notice given to the other.

14. CESSION

- 14.1. The Reseller hereby irrevocably cedes, assigns and transfers, makes over unto and in favour of Axiz, all the Reseller's right and title and interest in and to its claims against its debtors, both present and future

and from whatsoever cause arising, as security for all or any of the amounts which the Reseller may now or at any time in the future owe to Axiz.

- 14.2. The Reseller irrevocably authorises Axiz in its absolute discretion to claim from all or any of the Reseller's debtors the whole or any portion of the indebtedness of any one or more of them to give a valid receipt or discharge for such indebtedness, to take any action in its name in any court of competent jurisdiction and to proceed in execution thereunder against all or any of the said debtors to cede, transfer, negotiate, pledge or otherwise deal with all or any of the said debtors, to exchange promissory notes, cheques, agreements, documents of title or any other security held by the Reseller.
- 14.3. The security created by the cession shall be a continuous one, notwithstanding any fluctuation in the amount of the indebtedness of the Reseller to Axiz.
- 14.4. The Reseller hereby undertakes on demand, to furnish Axiz with such information concerning its debtors as may be reasonably required, to enable Axiz to give effect to the provisions of this clause.
- 14.5. This cession shall operate as a cession of all the Reseller's revisionary rights where the Reseller has entered into prior deeds of cession.

15. SECURITY

- 15.1. Axiz reserves the right, in its sole discretion to request reasonable security for the due performance of any of the Reseller's obligations. If Axiz receives security, it shall serve as a pledge in favour of Axiz for present and past debts.
- 15.2. Axiz shall be entitled to retain or realize such pledges, as it deems expedient.
- 15.3. In the event that Axiz requests reasonable security from the Reseller, which security is not forthcoming within 7 (seven) days of the request, Axiz shall be entitled to withdraw or cancel this Agreement in whole or in part, without incurring any liability whatsoever.

16. RESELLER CONSENT

- 16.1. The Reseller hereby agrees and acknowledges that Axiz shall monitor the Reseller's payment behaviour by researching both the company and its Directors/Members/Shareholders record with any credit bureau on an ongoing basis as well as transmit any details of how the Reseller has conducted his/her account in meeting its obligations.
- 16.2. The Reseller acknowledges that it may be necessary for Axiz to forward certain reseller information to its suppliers in accordance with its supplier requirements from time to time. The Reseller agrees that it shall be responsible for communicating and obtaining such consent from its resellers or end users for such purposes.

17. SET OFF

- 17.1. It is agreed that set-off shall operate automatically as a matter of law at the moment reciprocal debts between Axiz and the Reseller come into existence and independently of the will of the parties and it shall not be necessary for either Axiz or the Reseller to specifically raise set-off.
- 17.2. Upon the operation of automatic set-off aforementioned, the debts shall be mutually extinguished to the extent of the lesser debt.

18. OBJECTIONS TO STATEMENTS

18. If the Reseller fails to object to any item appearing on Axiz's statement of account within 30 (thirty) days of the dispatch of the statement, the account shall be deemed to be in order.

19. SURETYSHIP

- 19.1. The signatory, by his/her signature hereto, binds himself/herself in favour of Axiz, its successors-in-title and signs as surety and co-principal debtor *in solidum* with the Reseller for the due and proper performance by the Reseller of its obligations to Axiz.
- 19.2. The signatory warrants that he is duly authorized to represent and bind the Reseller, and that he has read and understood each term and condition of this agreement.
- 19.3. The signatory in his personal capacity, and in his representative capacity as the authorized representative of the Reseller, confirms that he accepts the terms and conditions of this agreement, and considers it binding jointly and severally on himself/herself and the Reseller.
- 19.4. Should the company launch business rescue proceedings or be placed under business rescue, the surety will as guarantor, make immediate payment of the monies then owing by the Reseller to Axiz on demand.

20. FINES AND PENALTIES

- 20.1. Axiz shall only be responsible to pay on demand any fines or penalties levied against it by any regulatory authority arising from any non-compliance of the Products or Services with any Applicable Law.
- 20.2. No payment of any such penalty by Axiz shall constitute an admission by Axiz of its liability or culpability in respect of such penalty or a waiver of its right to recover any amounts from the Reseller and Axiz may recover such amount of any such penalty from the Reseller for which the Reseller is liable in terms of this clause.

21. GENERAL

- 21.1. This document constitutes the sole record of the Agreement between the Parties in relation to its subject matter.
- 21.2. No alteration or variation to, or consensual cancellation of this agreement shall be of any force or effect, unless it is recorded in writing and signed by an authorized representative of Axiz.
- 21.3. No relaxation or indulgence granted by Axiz shall be deemed to be a waiver of Axiz's rights and such relaxation or indulgence shall not be deemed a novation of any of these terms and conditions.
- 21.4. The Reseller shall not be entitled to cede, assign, delegate, or otherwise transfer the benefit or burden of all or any part of this Agreement without the prior written consent of Axiz, which consent shall not be unreasonably withheld or delayed save that the onus of proving that such consent is being unreasonably withheld shall rest on the Party alleging the same. Axiz shall be entitled to cede or assign any rights or obligations which it may have in terms of this Agreement to any third party.
- 21.5. In the event that any of the terms of this agreement are found to be invalid, unlawful or unenforceable, such terms will be severable from the remaining provisions, which shall remain in full force and effect. If any invalid term is capable of amendment to render it valid, the parties agree to negotiate in good faith an amendment to remove the invalidity. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provisions if they were aware of such unenforceability at the time of its execution.
- 21.6. All provisions in this Agreement are, notwithstanding the manner in which they have been put together or linked grammatically, severable from each other.
- 21.7. The Reseller agrees to inform Axiz in writing at least 7 (seven) days before filing notices (prescribed in the Companies Act) to be placed under "business rescue" with the Companies and Intellectual Property Commission. The Reseller hereby consents to the jurisdiction of Section 45 of the Magistrates Court Act No 32 of 1944 as amended, in respect of all amounts or causes of action arising out of Products or Services rendered, supplied or delivered even though the amount involved exceeds the jurisdiction of such court.
- 21.8. No claim may be instituted against Axiz by the Reseller arising from this Agreement other than by way of arbitration. The dispute shall be resolved in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA") by a single arbitrator appointed by the AFSA. Should the Reseller fail to declare a dispute within 1 (one) year of the purported action arising, the Reseller's claim will lapse and will be of no force and effect.
- 21.9. This clause 21 shall survive termination of this Agreement.

Authorized Signatory Initial	Witness Initial	Witness Initial
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ACCEPTANCE OF CONDITIONS OF AGREEMENT & PERSONAL SURETY

I, _____ the undersigned, Identity Number _____

on behalf of _____

(please print full legal entity) (hereinafter collectively referred to as "the Reseller") accept the attached Conditions of Agreement of Axiz (Pty) Ltd and confirm that the same shall govern all trading terms between the Reseller and Axiz (Pty) Ltd. The Reseller warrants that the information set out in this Reseller Application and **Personal Surety** document is true and correct. The Reseller hereby acknowledges that he/she has read and understood each and every term of the Conditions of Agreement and accepts the same as binding on the Reseller.

THUS DONE AND SIGNED AT _____ ON THIS DAY ____ OF _____ 20 ____

(NAME OF WITNESSES) _____ (SIGNATURE OF WITNESSES) _____

(NAME OF WITNESSES) _____ (SIGNATURE OF WITNESSES) _____

The signatory hereto warrants that he has been duly authorised by the Reseller referred to above to enter into this contract on its behalf and **hereby binds himself/herself as surety and co-principal debtor in solidium with the Reseller in favour of Axiz (Pty) Ltd.** for all obligations to Axiz and accepts the same as binding on him/her.

SIGNATORY:

PRINT NAME

SIGNATURE OF AUTHORISED

Authorized Signatory
Initial

Witness Initial

Witness Initial