

Credit Facility Agreement

(F-ADM-002-V3)

Between

Active Music Distribution (Pty) Ltd
(hereinafter referred to as "THE COMPANY")

And

"THE APPLICANT"

_____ (Registered Company Name)

_____ (Company Registration Number)

Hereafter also referred to as the "PURCHASER" hereby apply for a 30 day credit facility from Active Music Distribution (Pty) Ltd. The information is submitted as the basis for consideration by the Company of my/our application.

Date submitted: _____

Date received (internal use only): _____

Completed forms should be signed and returned to lourens@activemusicdistribution.com

Original copies must be posted to:

Accounts Department
Active Music
PO Box 2460, Randburg,
Johannesburg, 2125, South Africa

Or delivered to: 1 Midway Park, 61 Old Pretoria Road, Halfway House, Midrand, 1685, South Africa

Please complete using a black pen.

Section A: Company details

Registered (legal) name of the Company:				
Trading name of Company:				
Previous Trading Names:				
Company Registration Number:				
Registered Office <i>(if company or close corporation)</i>				
Date Incorporated:		Date Commenced Trading:		
State longest uninterrupted trading period :				
VAT Registration Number: <i>(Import number if not in RSA)</i>				
<i>Please attach a copy of Current TAX Clearance Certificate and the company VAT Registration Certificate</i>				
Which best describes your business group? <i>(tick those which apply)</i>	<input type="checkbox"/>	Rental / Staging	<input type="checkbox"/>	House of Worship
	<input type="checkbox"/>	Retail / Music Shop	<input type="checkbox"/>	Radio
	<input type="checkbox"/>	Theatre/Concert Hall	<input type="checkbox"/>	TV / Broadcast
	<input type="checkbox"/>	DJ / Band / MI	<input type="checkbox"/>	Recording Studio
	<input type="checkbox"/>	Distributor / Importer	<input type="checkbox"/>	Education
	<input type="checkbox"/>	Commercial	<input type="checkbox"/>	Industrial
	<input type="checkbox"/>	Corporate AV	<input type="checkbox"/>	Installer
	<input type="checkbox"/>	Hotel / conference	<input type="checkbox"/>	Home / Hi-Fi
	Legal Entity <i>(Registered as)</i>	<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Trust <input type="checkbox"/> (Pty) Ltd <input type="checkbox"/> CC <input type="checkbox"/> Ltd <input type="checkbox"/> Section 53 <input type="checkbox"/> Inc		
	Physical Address: (Delivery Address)	Postal Address:		
Province:	Postal Code:	Postal Code:		
Tel: ()	Fax: ()			
Web:	General Email:			
Social Media : Twitter	Facebook:			
Which other suppliers are you registered with?				
Where did you hear about us? <i>(circle)</i>	Magazine/ Word of mouth/ Referral/ Internet/Tradeshaw			
Disclosure in terms of Section 4 of the National Credit Act, No 34 of 2005 ("the NCA") In order to determine whether this agreement may be subject to the NCA, you are required to disclose the turnover and asset value information set out below:				
Annual Turnover on the date of signing this: <i>(tick)</i>	<input type="checkbox"/>	Exceeds R1Million	<input type="checkbox"/>	Less than R1Million
Asset Value on the date of signing this: <i>(tick)</i>	<input type="checkbox"/>	Exceeds R1Million	<input type="checkbox"/>	Less than R1Million
Description of business and core business activities (nature of business):				
If a subsidiary company, state name of holding company:				

Section B: Business Premises

Are the business premises owned / leased?		Owned / Rented	
<i>If Rented, please provide landlord details:</i>			
Company Name:		Tel:	
Contact Name:		Email:	

Section C: Contact persons

Please provide names of the appropriate contact persons

Contact Person	Department/Position	Email	Birthday: Day/Month
	Financial Manager		
	Creditors Clerk		
	Purchasing/Buyer		
	Technical Manager		
	Sales/Hire Manager		
	Sound Manager		
	Video / AV Manager		
	Rigging Manager		
	Lighting Manager		

Opening hours:		Best time to contact?	
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Section D: Accounting / Financial details

Approximate value of initial order:			
Anticipated monthly purchase value:			
Required monthly credit limit: <i>*mandatory</i>			
Invoice and statement address: (Billing address)			
Invoice and statement email address:			
Invoice and statement fax number:			
Method to receive statements:		<input type="checkbox"/> EMAIL	<input type="checkbox"/> FAX <input type="checkbox"/> POST
Bank Name:		Branch Name:	
Account Number:		Branch Code:	
Account Name:		Period account held:	
Auditor's/Accounting Officer Company Name:			
Auditor's/Accounting Officer Contact Person:			
Auditor's/Accounting Officer Email & Tel:			
Auditor's/Accounting Officer Address:			
Month end account closure date:		Financial year end date:	
Annual Turnover (as per Balance Sheet 1 year before this application) <i>*mandatory</i>		R	
Gross asset value (as per Balance Sheet 1 year before this application) <i>*mandatory</i>		R	
Can the latest audited financial statements be made available?		Yes	No
Are your stocks subject to a Notarial Bond?		Yes	No
Are your Stocks insured?		Yes	No
Are payments made in batches?		Yes	No
Order numbers used?(circle applicable)	Yes No	Allow partial deliveries?(circle applicable)	Yes No

Section E: Additional Credit Information

Do you have any non-approved Credit applications outstanding	Yes	No
<i>If "Yes" please provide details</i>		
Have any judgments been taken against you related to credit defaults?	Yes	No
<i>If "Yes" please provide details</i>		
Have you signed any Sureties	Yes	No
<i>If "Yes" please provide details</i>		
Have you ceded your debtors' book?	Yes	No
<i>If "Yes" please provide details</i>		
Have guarantees by directors/members been made in favour of other creditors?	Yes	No
<i>If "Yes" please provide details</i>		
List all judgments and liquidations/sequestrations against the business or its principals:		

Section F: Details of Directors / Members/ Partners / Proprietors *(delete where not applicable)*
Please provide names and home addresses of all Directors / Members/ Partners / Owners.

Full Name & Surname	Residential Address	ID Number <i>(include copy)</i>	Email

Section G: Trade references
Please supply three active current trade references.

Company Name	Contact Person	Contact Number	Avg. monthly Purchases

Section H: Required Documentation – Checklist when submitting the application form

- Cancelled cheque and cancelled company letterhead
- Copies of Directors/Members ID Books
- Current TAX Clearance Certificate
- VAT Registration Certificate VAT103
- Company Registration Certificate

Initial and date:

I/we understand that:-

1. I/We acknowledge that I/we have read and understand and am/are bound by the Company's Standard Terms and Conditions of Sale, and agree that such terms shall be binding upon me/us in respect of all transactions entered into now and hereafter between the Applicant and the Company.
2. The Company reserves the right to discontinue and summarily to cancel any agreement in respect of which payments have fallen in arrears and, in the event of these rights being exercised, all amounts owing shall immediately become due and payable on demand.
3. Ownership for goods sold will only pass to the Buyer on full settlement of the purchase price as stipulated on the tax invoice.
4. The Company reserves the right to amend prices without prior notice.
5. The contact persons listed above wish to receive Email Communications for Sales, Marketing and Technical Updates and Information Bulletins.
6. Information on Active Music Distribution website and documentation is subject to change without notice.
7. I acknowledge that should payments not conform to the credit terms agreed, I shall be liable for interest on any overdue amount at the interest at the rate of 2.5% (two and a half per centum) per month above the prime bank lending rate as determined by Standard Bank South Africa. Credit facilities are granted by the Company at the sole discretion of the Company as to the nature, duration and extent. I/We acknowledge that the Company's terms are thirty (30) days statement and the Company will not grant or entertain any early settlement discounts.
8. I/We acknowledge that the information provided in this credit application form is to be used by Active Music Distribution (Pty) Ltd for the purpose of assessing my credit worthiness.
9. I hereby certify that I am duly authorised to sign this application for credit facilities and record that I agree to the terms and conditions stated herein, and acknowledge that all business stated will be conducted in terms of the Active Music Distribution Terms and Conditions of Sale, which have been brought to my attention and by which I am hereby bound.
10. The Company may hold and process by computer or otherwise any information obtained about me (individual) or us (business entity) as a result of this application.
11. I certify, to the best of my knowledge, the information recorded in this application is true and correct. I agree that all goods remain the property of Active Music Distribution (Pty) Ltd until fully paid for. I warrant my authority to sign on behalf of the applicant/purchaser to execute this facility agreement having read and understood all the conditions.

Thus done and signed at _____ on this the ____ day of _____ 20 ____

Signature: _____

As witnesses:

Full Name: _____

1. _____

Capacity: _____

2. _____

Identity No: _____

Company Stamp

Initial and date:

Deed of Suretyship Agreement

1. I/We, by my/our signature's hereto, do hereby bind myself/ourselves in my/our private and individual capacity as surety/ies and co-principle debtor/s jointly and severally and in solidium with the _____ "THE PURCHASER" (Registered name of the Purchaser) for the punctual payment of all amounts, from whatsoever cause and howsoever arising, which the Purchaser may now or in the future owe to Active Music Distribution (Pty) Ltd (hereinafter referred to as "THE COMPANY"). The guarantee shall be a continuing guarantee which my only be cancelled by the Purchaser, by notice, in writing, to the Company and then only provided all sums then owing by the Purchaser (where due or not), to the Company, have been paid in full. I renounce the benefit of legal exceptions of:
 - 1.1 non cause of debt;
 - 1.2 excussion and division, and
 - 1.3 cession of actionwith the force, meaning and effect of which I declare myself to be fully acquainted.
2. This suretyship will establish a continuing covering security on my/our part for all monies owing to Active Music Distribution (Pty) Ltd by the Purchaser from time to time. A certificate signed by an Executive of Active Music Distribution (Pty) Ltd as to the amount of the Purchaser's indebtedness shall constitute *prima facie* proof of such Purchaser's indebtedness. This suretyship shall remain in force until Active Music Distribution (Pty) Ltd agrees to cancel it.
3. I/We acknowledge that any certificate issued in terms of above clauses shall be binding on me/us in any action brought against me/us as surety/ies and co-principal debtors. I/We choose as my *domicilium citandi et executandi* at the address specified below my/our signature/s.

Signed at _____ on this _____ day of _____ 20 ____

Signature: _____
Full names: _____
Capacity: _____
Identity No: _____
Address _____

AS WITNESS:

1. _____
2. _____

Signature: _____
Full names: _____
Capacity: _____
Identity No: _____
Address _____

1. _____
2. _____

Consent Agreement

In terms of the National Credit Act No.34 of 2005 between Purchaser and Seller

In terms of the Act, the Seller required the Purchaser's written consent and authority to access information his/her business or persons. This document service to provide Active Music Distribution (Pty) Ltd all its operational branches and divisions (hereinafter referred to as the "seller" with this authority.

Full name of company (the "Consent Giver") hereinafter referred to as the "Purchaser"

Company Name:

Company Registration Number:

1. Confidential and Personal Information

The Purchaser agrees that the Seller may request and receive any of the Purchaser's confidential and consumer credit information from any credit bureau, other register or any third party at any time, including requesting a bureau score and confirmation that this consent also covers such information that has already been receive by the Seller. The Seller may also share this credit information (including information regarding non compliance with the (Purchaser's under this agreement) with any other information regarding the account, with any other credit provider and credit bureau for, amongst other things, the purposes of such credit bureau sharing such information with other potential credit providers and credit bureaus. The Purchaser understands that the credit bureau provide to credit providers a profile and a score as to the credit worthiness of the Purchaser.

2. Credit Bureau

- 2.1 The Seller may disclose my confidential and consumer credit information as set out above, to any credit bureau that the Seller may engage from time to time.
- 2.2 The Purchaser understands that it may at any time contact any credit bureau and request that its consumer credit information be disclosed to it. The purchaser may further challenge any information held by the credit bureau that it believes to be incorrect.
- 2.3 The Seller may also provide the Purchaser's confidential and consumer credit information and buying patterns to associated companies and to any party concerned with fraud and the prevention of and protection against crime
- 2.4 The Purchaser understands that in terms of the South African Money Laundering Legislation, the Seller has a duty to report suspicious or unusual transactions involving unlawful activities in accordance with the obligations placed on businesses in this regards.

3. Consent

I/We hereby authorize Active Music Distribution (Pty) Ltd to furnish credit information concerning myself/ourselves to any credit bureau, or to any credit provider seeking trade references, and to request information concerning myself/ourselves from any credit bureau or any credit provider in order for Active Music Distribution (Pty) Ltd to conduct a credit assessment or affordability assessment in respect of myself/ourselves and/or to trace me/us.

4. Confirmation

I/We are not currently subject to a debt review or re-arrangement order or agreement as contemplated by the National Credit Act; nor to business rescue proceedings as contemplated by the Companies Act. I/We certify that the above information is true and correct.

For and on behalf of the Purchaser, who warrants that he / she is duly authorised thereto.

Name:

Signature:

Capacity:

Date and Time:

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TERMS AND CONDITIONS OF SALE

1. General

The following terms and conditions represent the entire terms on which Active Music Distribution (Pty) Ltd ("the Seller") is willing to sell goods ("the Goods") and by ordering Goods from the Seller the Buyer (which is a Person, Firm, Company, Close Corporation or other legal entity) agrees that the following terms represent the entire agreement between the Buyer and the Seller and that these terms shall apply to the exclusion of any previous terms and conditions supplied by the Seller, the Buyer's own terms and conditions, any pre-contractual statement or any other terms of whatsoever nature not contained below. No officer, employee or agent of the Seller (other than a Director/Managing Member) has authority to contract for the sale of Goods on any other terms, or to amend, vary or waive these terms, and a Director has authority to do so only in writing.

2. Delivery

Stage Audio Works undertakes to fulfill the Buyer's orders for the products, once approved and accepted by Active Music Distribution, and to use its best endeavours to meet the Buyer's delivery date requests.

Any time of delivery stated by the Seller either on the face of this form or otherwise shall be treated as an estimate only. The Seller will use its reasonable endeavours to deliver by that time but gives no other undertaking as to the time of delivery. Active Music Distribution does not guarantee delivery and/or delivery on any specific date and shall not be liable for any damages for failure to affect delivery/dispatch timeously for any reason whatsoever.

The Buyer shall not be entitled to cancel an order by reason of any delay and all orders are open for acceptance and irrevocable unless and until rejected by Active Music Distribution. The Goods shall be delivered to the Buyer at the place of delivery recorded on the Sales Order (Customer Purchase Order) or (if no such address is recorded there) at the premises of the Seller as recorded on the database of the Seller.

3. Orders

The Seller shall only supply products to the Buyer in accordance with these terms and conditions upon receipt of an order, in writing, from the Buyer. Notwithstanding the aforesaid, the Seller shall be entitled, but not obliged to accept orders communicated telephonically to it by the Buyer. The Customer shall confirm any such telephonic order in writing if required to do so by the Seller. The Seller does not accept any responsibility to ensure that the Buyer's signature(s) on the order is valid or that the person placing the order is indeed an employee of Customer.

All orders placed by the Buyer with the Seller are subject in all respects to approval and acceptance by the Seller, in its sole and absolute discretion, and the Seller shall not be bound to accept any order placed by the Buyer or be liable to the Buyer for any claim of any nature which arises by virtue of its failure to accept any order.

4. Price and payment

The purchase price of the products delivered by the Seller to the Buyer from time to time shall be the most recent price stipulated in respect of the products furnished by the Seller to the Buyer from time to time. The Seller shall be entitled in its sole discretion to vary the price of any product at any time prior to the invoicing of that product.

The Buyer shall be obliged to pay the purchase price of any products delivered to it in terms hereof, in South African currency at Active Music Distribution domicilium as specified on Active Music Distribution delivery note. If price changes results in a higher purchase price to the Buyer, Active Music Distribution will deliver all outstanding orders at the new higher price. This includes, inter alia, products that cannot be delivered due to credit reasons. Customer has the right to cancel such orders, in writing, before delivery is affected.

If price changes result in lower purchase prices to Customer, Active Music Distribution may, in its sole and absolute discretion, give Customer the reduced price. All accounts are strictly bound by the credit terms granted. Until such time as credit has been approved or declined, all business will be on a CIA basis (cash in advance).

The invoice shall be payable in advance before delivery of the Goods should the buyer be a cash customer. If the Buyer has an approved and valid credit facility in place, the invoices shall be payable on 30 days statement. The Seller will not grant or entertain any early settlement discounts. The time of payment shall be of the essence. Cash and EFT's will only be regarded as a payment received on the date it clears in the Company's bank account. In the event that payment is not made when due, the Seller may:-

- 4.1 cancel any outstanding orders or contract to supply further goods or services at the original agreed price;
- 4.2 suspend deliveries of current orders or further goods or the supply of further services to the Buyer;
- 4.3 suspend any Credit Facilities, in which case all sums payable to the Seller from the Buyer for goods and or services supply shall become due and payable immediately; and
- 4.4 charge interest at 2.5% (two and a half per centum) per month above the prime bank-lending rate as determined by Standard Bank South Africa.

5. Passing of Property

- 5.1 Property in the Goods shall pass to the Buyer on the occurrence of the last of the following events namely:
- payment in full of the price of the Goods sold hereby, and
 - payment in full of every other sum owing by the Buyer to the Seller.
- 5.2 Until property shall have passed as aforesaid the Buyer shall hold the Goods as billed to the Seller and shall keep them separately stored and identified as the property of the Seller.
- 5.3 In the event that the Buyer shall sell the Goods before property has passed as aforesaid, he shall do so as the agent of the Seller, the proceeds of any such sale shall be kept in a separate account identified as containing monies from the sale of the Sellers property and the Buyer shall account to the Seller for the whole of such proceeds.
- 5.4 Until property shall have passed as aforesaid the Seller shall be at liberty at any time: -
- by notice in writing to require the Buyer forthwith to return the Goods whereupon the Buyer shall cease to be in possession of them with the consent of the Seller;
 - to retake possession of the Goods and for that purpose to enter on any premises where the Goods are or are reasonably believed by the Seller to be situated.
- 5.5 Notwithstanding the above the Goods are insured by the Seller whilst in transit and until delivered to the Buyer's door. The Buyer shall sign for the Goods as "delivered not checked" and shall advise the Seller in writing within 5 days of receipt of the Goods of any damage to them. Any damage not notified in writing within the said 5 days shall not be covered by the Sellers insurance and shall be at the risk of / to the account of the Buyer.

6. Fitness for Purpose

The Seller gives no warranty that the Goods are fit for the Buyers purpose or purposes. The Buyer warrants that he has satisfied himself that the Goods will be fit for every purpose which he requires them and that he does not rely on any skill or judgment of the Seller in that regard.

The Buyer further warrants that: -

- he is aware that the Goods are supplied for the purpose for which they were manufactured, and
- he has all the licenses that are required for their use, and
- the Goods will be tested prior to use, and
- the Goods will only be used by suitably qualified individuals, and
- the Goods will be regularly serviced, tested, certified and inspected, and
- the Goods will not in any way be adapted or altered, and
- he will not give or imply any warranty to any person whom he may sell or let the Goods other than the foregoing and that he will notify that person of the requirements of the Seller as to license, test, use, service, inspection, certification, and adaptation as above and of any statutory authority of any state or country in which the Buyer or that person is resident or carrying on business.

7. Acceptance

The Buyer shall inspect and test the Goods immediately upon delivery and shall within 5 days after delivery give notice in writing to the Seller of any respect in which he alleges that the Goods are not in accordance with the contract. If the Buyer shall not have given such notice within that time the Goods shall be deemed to be accepted in every respect in accordance with the contract.

8. Scope of Warranty

In the case of defective or faulty goods supplied by the Seller the Buyer's remedy against the Seller shall be limited to a period no longer than twelve months from the date of purchase. If any defect arises during this period the Seller reserves the right, at its option, to repair or replace the goods (or provide an equivalent item) or give credit to the value of the purchase price of the goods, provided that the goods have not been damaged or abused or improperly installed or operated and that the goods are returned in there original packaging to the Seller with proof of purchase. The seller accepts no responsibility for consequential loss. This warranty is subject to the return of the goods by the Buyer using prepaid freight within the twelve month warranty period. Manufacturer's original warranties will apply should the warranty exceed twelve months.

It is expressly recorded that the Seller does not accept any responsibility for any warranties, express or implied, or statutory, including implied warranties of merchantability and fitness for a particular purpose.

9. Limitations or Liabilities

This clause shall apply to all claims by the Buyer against the Seller irrespective of whether such claims arise in contract or in tort and whether or not the Seller was negligent.

- (a) The Seller shall indemnify the Buyer against any claims arising from physical injury to or death of the Buyer's personnel and/or third parties, which is directly and wholly caused by the negligence of the Seller or its employees in the performance of its or their duties under this Agreement.
- (b) In the event that notice has been given pursuant to clause 7 above that the Goods (or part thereof) are not in accordance with the contract and the price of the Goods has been paid on or before the due date, the Seller shall replace or repair the Goods (or part thereof) at its own expense provided that the Buyer has within 30 days after the said notice caused the Goods (or part thereof) which are alleged to be defective to be returned, at the Buyer's expense, to the Seller's premises or such other place as the Seller shall direct.
- (c) No other remedy than that provided for in sub-paragraph (b) above shall be available to the Buyer.
- (d) Without prejudice to the generality of the foregoing the Seller: -
 - (i) shall not be liable for damages in the nature of or arising from loss of profits, loss of user, loss of revenue, loss of hire or rental in respect of the Goods or any other goods, nor for damages arising from compensation payable by the Buyer to any other person, firm, corporation or organization whatsoever, and
 - (ii) except in relation to claims under sub-paragraph (a) above shall not be liable for any losses, damages, costs, claims, expenses or liabilities exceeding the purchase price of the Goods.

Should the Seller, notwithstanding the foregoing, be found by a competent court of law in the Republic of South Africa, to be liable for any losses, costs, damages or refunds, Customer hereby specifically agrees that the Seller liability will be limited to a maximum of the price received by the Seller from Customer for the products which may give rise to the action, subject to the return of such products in good condition, fair wear and tear excepted.

10. Force Majeure

The Seller shall be relieved of its obligations under this contract insofar as it is hindered in or prevented from performing them by any circumstances whatsoever.

11. Hold Harmless

The Buyer undertakes and agrees to indemnify and hold harmless the Seller against any and all actions, claims, proceedings, costs, losses, expenses, liabilities, including legal fees, whatsoever and howsoever caused or arising out of, connected with, or resulting from the Goods themselves or use of the Goods including without limitation the manufacture, selection, delivery, possession, use, operation, return or any and all damages or injuries caused thereby to anyone whatsoever.

12. Waiver and Invalidity

- (a) The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this contract by the other party shall not be deemed a waiver of that term, covenant, or condition nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.
- (b) If any provision in this contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in force without being impaired or invalidated in any way.

13. Arbitration

All disputes or differences which shall at any time arise between the parties whether during the term of this contract or afterwards touching or concerning this contract or its construction or effect or the rights duties or liabilities of the parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this contract shall be referred to a single arbitrator to be agreed upon by the parties.

14. Applicable Law

These Terms and Conditions of Sale shall be in all respects governed by and construed in accordance with the laws of the Republic of South Africa. The courts of South Africa shall have jurisdiction in all matters pertaining to or arising out of these Terms and Conditions of Sale.

15. Miscellaneous

Either party choose as their domicilium citandi et executandi, their business address as set out on the Seller invoice(s). Each party shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other physical address and/or its facsimile number or email address within the RSA.