

CUSTOMS AND EXCISE ACT, 1964, (ACT 91 OF 1964)

LICENSING OF CUSTOMS AND EXCISE WAREHOUSES

Pro Forma Agreement as contemplated in rule 19A.02(a)(ii)

Annexure A

As

_____ (Full name of applicant – hereinafter referred to as “licensee”)

Of

_____ (Physical address of applicant – not a PO Box)

herein represented by

_____ Full name

_____ Witness

*duly authorised thereto by virtue of -

- (a) *a resolution passed at a meeting of the Board of Directors held at _____ on _____ day of _____; or
- (b) *express consent in writing of all partners of a partnership / *members of the close corporation / *trustees of the trust; or
- (c) *being a person having the management of any other association of persons referred to in rule 60.02(2)(a)(iv),

has applied for a customs and excise warehouse license; and

(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
2. Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –

- (a) understands that its rights to conduct the business of a customs and excise warehouse are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner.
- (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures of this agreement.
- (c) (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act, the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.

- (ii) Licensee hereby agrees to and authorises the inspection of such books and business banking accounts as the Commissioner and the delegated officers may require.

- (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraph (v)) of the licensee -
 - (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;
 - (iii) is convicted of any offence under the Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestrated or liquidated;
 - (vi) fails to comply with the qualification requirement set out in the rules for section 60; or
 - (vii) ceases to carry on the business for which the licence is issued,and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.

- (e) Licensee in addition undertakes:
 - (i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least -
 - (aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers' invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
 - (bb) in the case of excisable and fuel levy goods not being distillate fuel referred to in subparagraph (cc), books, accounts and documents as the Controller may require;
 - (cc) in the case of distillate fuel on which a refund of fuel levy is granted in terms of item 670.04 of Schedule No. 6, the documents specified in Note 6 to item 670.04;

- (*dd*) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;
- (*ee*) in the case of goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;
- (*ff*) every contract entered into and any instruction give to any licensed remover of goods in bond in respect of the carriage of goods by such remover;
- (*gg*) books, accounts, documents and proof of fulfilment of any obligation relating to the removal of goods in bond, re-warehousing, goods exported or other goods for which such acquittals are required in terms of any provision of the Act; and
- (*hh*) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted as a licensee of a customs and excise warehouse under the provisions of the Act;

- (ii) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (iii) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
 - (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his delegated officer may require;
 - (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure -
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller or purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the customs and excise warehouse business of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;
3. Licensee is aware of the obligation to account for all dutiable goods produced or stores and at all times to be able to prove the fulfilment of any obligation relating to the payment of duty, export, removal in bond or other movement of such goods as may be required in terms of any provision of this Act.
4. Licensee understands and accepts -
- (a) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are

applicable licensee undertakes to disclose all relevant facts when applying for such a licence;

- (b) the condition prescribed in the rules for section 60 that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.
5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.
6. (a) The licensee chooses *domicillium citandi et executandi* at:
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(b) The Commissioner chooses *domicillium citandi et executandi* at:

7. Thus done and signed at _____ on this

Licensee

Witness

Thus done and signed at _____ on this

For and on behalf of the Commissioner

Witness