



B & B Markets – Essenwood (Pty) Ltd (1998/011505/07)

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## **AFRICAN CRAFT MARKET OF ROSEBANK** **UPPER LEVEL DISPLAY RACK SYSTEMS**

### **GENERAL**

The Market is situated on Cradock Avenue in Rosebank and incorporates normal stalls and a display rack system. The Market operates 9.00am to 6.00pm Monday to Sunday, including Public Holidays.

### **STALL STRUCTURES**

The rack system consists of standardized shelving approximately 900mm by 600mm by 2m in size.

### **STALL FEES**

**RACK SYSTEM** : Monthly fee of R968.00 excluding VAT. PLUS 13% of turnover excluding VAT.

**STALL FEES ARE PAYABLE MONTHLY IN ADVANCE.**

### **POINT OF SALE**

All sales are controlled through a centralised paypoint system. The system is fully computerised generating detailed sales reports.

### **APPLICATION**

To apply to trade at the Market, applicants are requested to bring a sample of their products to the shop on Tuesdays for approval. If it is not practical to bring in a physical sample of your products please bring a clear, close up photograph of your product.

**PLEASE NOTE: Product approval will only be done on Tuesdays between 09h00 - 16h00.**

The four main criteria for successful applications are the quality of the product, value for money, uniqueness and craft content. Management strives to limit duplication of products.

All traders are accepted on a three month contract. Renewal of the contract is subject to Managements discretion.



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**AFRICAN CRAFT MARKET OF ROSEBANK**  
**APPLICATION FORM – UPPER LEVEL**

TITLE (MR. MRS. MS) \_\_\_\_\_  
FIRST NAME \_\_\_\_\_  
SURNAME \_\_\_\_\_  
BUSINESS NAME, IF APPLICABLE \_\_\_\_\_  
PHYSICAL ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
IDENTITY NUMBER (of applicant) \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_

**CONTACT DETAILS**

TEL HOME \_\_\_\_\_ TEL WORK \_\_\_\_\_  
CELL \_\_\_\_\_ FAX \_\_\_\_\_  
E-MAIL \_\_\_\_\_ VAT REG NO. \_\_\_\_\_

**PLEASE PRINT CLEARLY USING BLOCK LETTERS**

1. Description of your product(s) in detail – please be accurate. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Do you trade anywhere else? Yes ( ) No ( ) If yes, where and with what product(s)? \_\_\_\_\_  
\_\_\_\_\_
3. Any special considerations? \_\_\_\_\_

**IMPORTANT NOTICE**

PLEASE NOTE THAT OUR STANDARD CONDITIONS OF TRADE ARE APPLICABLE AND BINDING ON YOU AS THE APPLICANT TRADER. THE DUTY LIES WITH YOU AS THE APPLICANT TO READ THESE CONDITIONS WHICH APPEAR ON EITHER THE REVERSE SIDE OF THE PAGE OR ON A SEPARATE ANNEXURE WHICH IS AVAILABLE AT OUR OFFICE ON REQUEST AND WHICH THE TRADER IS REQUESTED TO SIGN. WITH OR WITHOUT SIGNATURE OF SUCH ANNEXURE THESE CONDITIONS REPRESENT THE TERMS OF OUR 3 MONTH CONTRACT WITH YOU AND YOU CONFIRM THAT YOU HAVE READ THEM OR ACCEPT THEM AND AGREE TO BE BOUND TO SUCH TERMS UPON OUR ACCEPTANCE OF YOUR APPLICATION WHETHER THEY APPEAR ON THE REVERSE SIDE OR IN A SEPARATE ANNEXURE.

SIGNATURE \_\_\_\_\_ PLACE \_\_\_\_\_ DATE \_\_\_\_\_



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## STANDARD CONDITIONS OF TRADE

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 “ACM” means B & B Markets Essenwood (Pty) Ltd;
- 1.2 “contract” means the contract (meaning a period starting on any day in a given month) between ACM and the trader whereby the trader is permitted to trade from a rack allocated to the trader which comes into being upon ACM approving the traders application by entry in its computer database upon the terms contained in these conditions of trade. The contract will continue on a three month basis, automatically renewed for a further three months indefinitely, unless notice of earlier termination shall have been given by either party in terms of 1.9 below;
- 1.3 “commencement date” means the start date allocated by ACM to the trader in its computer database which shall be the date of commencement of the traders right to trade at the shop and the commencement of the 3 month contract;
- 1.4 “landlord” means the landlord of that part of the premises leased by ACM for the purpose of conducting a market/shop (“the head lease”)
- 1.4 “shop” means the shop operated at the premises by ACM;
- 1.5 “premises” means the area whereon the shop is operated situate on **the upper level of the African Craft Market of Rosebank on Cradock Avenue;**
- 1.6 “trader fee” means the basic fee payable to ACM by the trader for the right to trade from his rack, the tariff of fees for various type racks being detailed hereunder;
- 1.8 words signifying the singular include the plural and vice versa and reference to one includes another as the context requires;
- 1.9 clause headings are for convenience only and are not to be used in interpretation.
- 1.10 “notice period” ACM may give the trader one month’s written notice of termination of the contract, provided such notice be given no later than one month prior to the expiry of the then period of the contract. In the case of the trader giving notice, such notice shall require to be given in writing at least two months prior to the expiry of the then period of the contract.
- 1.11 For the purpose of 1.10 above, reference to a month shall mean 30 (thirty) days whether or not any such days are public holidays or non-working days or weekends.

### **2. CONTRACT**

- 2.1 The parties agree to enter into the contract upon the terms set out in these conditions of trade with effect from the commencement date.
- 2.2 Unless otherwise notified to the trader by ACM, the shop operates seven days a week being Monday to Sunday, including public holidays (save Good Friday, Christmas day and New Years day) during the hours 9.00 am until 6.00 pm which constitute the trading hours. ACM reserves the right to change these hours from time to time.

### **3. PRODUCT APPROVAL**

- 3.1 The trader shall only sell and exhibit those products which have been specifically approved by ACM and limited to the products reflected in the application form signed by the trader save for deletions or modifications to that list countersigned by ACM and on written notice shall be binding on the trader;
- 3.2 ACM has the sole discretion to delete items approved for sale by the trader from time to time and accordingly the trader shall be limited to trade only in products approved by ACM from time to time;

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SIGNATURE

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Corner Cradock and Baker Avenue, Rosebank P.O. Box 2726, Parklands 2121  
Tel No: 880-2906 Fax No: 880-2944 Internet : www.craft.co.za E-mail : bb@craft.co.za  
DIRECTORS : Brent Herbert (Adv. BA. LLB); Bruce Jones(B Com – Wits)

**4. HEAD LEASE**

- 4.1 The trader acknowledges that he shall not at any time during the currency of the contract or any other time have any rights whatsoever in respect of the occupation or possession of the premises on and from the trader has his stall or rack and at no time shall he have any right to claim any tenancy or right to tenancy or other tenure of whatsoever nature in respect of the premises;
- 4.2 The trader shall not at any time do or permit to be done anything on or from the premises which may prejudice ACM's rights of occupancy thereof or be an infringement of the head lease;
- 4.3 Despite anything to the contrary in these conditions of trade the trader recognizes that he shall be an invitee of ACM on the premises and accordingly shall comply strictly with all and any instructions of whatsoever nature given by ACM in respect of or pertaining to the premises;
- 4.4 The cessation of ACM's right to operate the market, irrespective of the reason, shall automatically terminate the trader's right to do so and neither party shall have any claim against the other arising out of such termination.

**5. TRADERS GENERAL OBLIGATIONS**

The trader shall:

**TARIFF FOR MARKET**

DESCRIPTION	TARIFF FOR RACKS
Upper level rack	Monthly rental of R968 per month excl. VAT. & service fee of 13% of turnover excl. VAT
Shelf or two boxes	Monthly rental of R646 per month excl. VAT & service fee of 13% of turnover excl. VAT
Own Display unit	Monthly rental of R324 per month excl. VAT & service fee of 13% of turnover excl. VAT
Front Rack	Monthly rental of R1009 per month excl. vat & service fee of 13% of turnover excl. vat

- 5.1 not cede, transfer or assign his rights hereunder which he acknowledges are personal to him, nor shall be sublet or grant any person any right to occupy or trade from his stall;
- 5.2 be liable to ACM as the case may be for any damage caused by the trader to the premises or property of ACM which contains the premises;
- 5.3 pay a deposit equivalent to one months trading fee on notification to the trader of the approval of his application for the allocation to him of a rack;
- 5.4 retain receipts for payment of trader fees which must be produced on request as proof of payment and confirmation of rack number;
- 5.5 not interfere, upset or cause inconvenience to fellow traders or members of the public or staff of ACM or landlord or behave in an improper manner or be inebriated or do anything to lower or demean the good name and reputation of the shop;
- 5.6 in the event of ACM being entitled to take legal action against the trader for any reason, be liable to pay ACM's legal costs on the attorney and owner client scale including collection commission; the trader consents to the jurisdiction of the magistrates court in respect of any such action;
- 5.7 comply with all laws, by-laws and regulations to traders or occupiers of business premises or affecting the conduct of any business carried on in the premises;
- 5.8 not contravene or permit the contravention of any of the conditions of title under which the property is held by ACM or any of the provisions of the Town Planning Scheme applicable to the property;
- 5.9 insure and keep insured all its goods in the premises;
- 5.10 maintain adequate public liability insurance;

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- 5.11 not make any alterations, additions or improvements to the interior or exterior of the leased premises, whether structural or otherwise, without ACM's prior written consent;
- 5.12 not attach to the walls any fittings, shelving or appurtenances without ACM's prior written consent;
- 5.13 not solicit or canvass for business in the parking area or other common areas in the shopping centre and not distribute any pamphlets, handbills or other advertising matter on motor cars parked in the parking area or in any other common areas;
- 5.14 not leave or permit to be left any packages, furniture, cycles, handcarts, boxes, papers, rubbish or any other goods or articles upon or in the service area, landings, stairways or passages or in any part of the property other than specific areas allocated to the trader for the express purpose concerned, in which area no unreasonable accumulation of any articles or matters shall be made or permitted to the trader;
- 5.15 not paint, affix or attach to the premises or any part of the shopping centre or the property any advertising signs or other matter, awning or canopy or any other thing of any kind without ACM's prior written consent; if the trader commits a breach to these provisions ACM shall be entitled, without notice or order of court, to remove the offending matter;
- 5.16 not install any floor covering, interior or exterior lighting, plumbing, fixtures or shades or change the layout of the premises or make any change to the stall without ACM's prior written consent;
- 5.17 ensure that the premises are adequately stocked with merchandise;
- 5.18 at all times ensure that no nuisance emanates from the premises;
- 5.19 ensure that the décor of the premises is maintained which is in keeping with a high standard of the shop;
- 5.20 comply with ACM's security and fire regulations which may exist in the shop from time to time. The trader undertakes to use its best endeavors to secure compliance therewith by its invitees and/or customers from time to time;
- 5.21 recognize ACM's right in its sole discretion to allocate or re-allocate the location of the traders stall from time to time;
- 5.22 be in possession of valid documents to reside and work in the Republic of South Africa;
- 5.23 the trader shall be liable for a 4.25% excl. VAT surcharge for all credit card transactions processed by ACM.
- 5.24 comply with the laws and regulations of the Republic of South Africa.

## **6. ACM'S RIGHTS AND LIMITATION OF LIABILITY**

Apart from other rights, ACM on its behalf shall:

- 6.1 have the right to appropriate in its discretion any amounts received including but not limited to the deposit towards payment of any indebtedness or cause for which the trader is or may be liable to ACM;
- 6.2 be entitled to cancel the contract summarily on notice to the trader should the trader breach any of his obligations to ACM under these conditions of trade or fail to carry out instructions or directions which ACM has given to the trader;
- 6.3 have the right, without needing cause or advancing any reason, to terminate the contract by giving the trader one month's notice of termination. In the event of such notice being given to the trader, or in the event of any cancellation of the contract by ACM by reason of breach on the part of the trader, the trader shall have no claim of whatsoever nature against ACM or any one else including without limitation, its directors or staff of ACM or the landlord or its agents, save for refund by ACM of any fee paid beyond the expiry date of the notice and any part of the deposit to which he is still entitled;
- 6.4 have the right, in its sole discretion and without giving reasons therefore, to increase or decrease the number of current trading days; to increase or decrease the number of trading stall racks; to determine the composition and mix of products between the different traders from time to time and to revise the standard conditions of trade; to move or alter the location of the shop; to issue instructions to traders with regard to standards of behaviour and conduct of their manner or style of trading;
- 6.5 not be liable to the trader for any damages (or other relief) incurred or claimed by the trader or any member/director/agent/employee/customer or invitee of the trader for any reason attributable to ACM or its employees/directors/agents/contractors or subcontractors, for any breach of contract or duty, act of negligence (including gross negligence), including without limitation the failure of the shop to operate on any particular day or the inability of the trader to operate his stall or for any damage to the traders property of any description or theft of such property or riot or public disturbance of any kind; such exclusions of liability shall also extend to and be for the benefit of the landlord, when and if applicable;
- 6.6 have the right in its sole discretion to increase or decrease the tariff on one months written notice for the forthcoming month to the rate it deems appropriate;
- 6.7 have the right, in its sole discretion to suspend a trader's right to trade for a one month period. The suspension will be a disciplinary action based on a traders conduct at the market with regard to standards of behaviour and conduct of their manner on style of trading.

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- 6.8 The Credit Grantor may:  
Perform a credit search on the applicant's credit profile with one or more of the registered Credit Bureau when assessing the Applicant's application for credit. Monitor the credit applicant's payment behavior by researching their profile at one or more of the Credit Bureaus. Use new information and data obtained from Credit Bureau in respect of the applicant's future credit applications. Record the existence of the applicant's account with the Credit Bureau. Record and transmit details of how the applicant has performed, and how the account is conducted by the applicant in meeting their obligations on the account. The applicant gives B & B Markets permission to do a credit check
- 6.9 Have the right in its sole discretion, to allocate a traders' credit card sales to any outstanding debt that the trader has with the market and/or associated markets operated by the B & B Group.
- 6.10 The TRADER shall be liable to ACM for interest on overdue accounts at the rate of 2% (two per centum) over and exceeding the prime lending rate charged by Nedbank, a division of Nedcor Bank Limited at any given time on all overdue accounts. An account will be overdue on the expiry of the period mentioned in clause 1.2 above. A certificate issued by a manager whose position need not be proved, by Nedcor Bank Limited indicating the prime rate from time to time shall constitute prima facie evidence of such rate.

## 7. TRADER FEES

- 7.1 The trader shall pay ACM the first month's rental of R\_\_\_\_\_ (incl. VAT) in advance. Payment is to be made at the shop situated in the African Craft Market of Rosebank;
- 7.2 Payment of rental is to be paid monthly in advance by the deduction from the first two weeks of the trader turnover which is received at the paypoints e.g. If there are four weeks in February we will deduct R\_\_\_\_\_ (R\_\_\_\_\_ plus VAT) from the trader's turnover received at the paypoints at the end of the first two weeks for March rack fees;
- 7.3 Should there be a shortfall, payment will be deducted on a daily basis from traders turnover received at the paypoint. Full payment must be received by the close of business on the 25<sup>th</sup> of the month. If a trader has had insufficient funds deducted to cover his pre-payment of trader fees by the 25<sup>th</sup> it is his or her responsibility to ensure that they have paid ACM any shortfall.
- 7.4 The deposit does not form any part of the trader fee and will be forfeited to cover costs incurred by ACM through non-payment of the trader fee, due to the additional admin costs incurred, and is not recoverable nor can it be construed as part or full trader fee for any month.

## 8. GENERAL

- 8.1 The trader chooses as his domicilium citandi et executandi for all purposes arising out of or in connection with the contract, at the option of ACM, the traders stall or any address appearing on the traders application form or the last known address of the trader as known to ACM or his fax number. It shall also be open to ACM to give oral notice of any kind to the trader, if notice is called for, for any reason instead of written notice, save that written notice shall be required when either party wishes to terminate the contract. ACM's domicilium citandi et executandi for all purposes arising out of/or in connection with the contract at ACM's then principal administrative place of business, which is presently at Adreach House, 33a Bath Avenue, Rosebank;
- 8.2 No variation or amendment of any kind of the contract or consensual cancellation of the contract or any of its terms shall be valid and binding unless reduced to writing or forms part of its revised standard conditions of trade;
- 8.3 Each of these conditions of trade are severable in all respects, and the unenforceability of any term or part of a term shall not prevent any other term or part from being enforced;
- 8.4 No indulgence or waiver extended by ACM to any trader shall constitute an estoppel of ACM to enforce its rights;
- 8.5 No warranties or representations expressed or implied have been made to the trader other than those, if any, mentioned specifically in these conditions of trade;
- 8.6 The trader acknowledges that ACM has or will install paypoints staffed by appointees of ACM, where all purchases will be paid for, and that the turnover of the trader is determined by ACM at the pay point from the sales attributed to the trader, and the traders turnover shall be calculated on that basis and the percentage of turnover charged by ACM shall be paid by the trader retaining same at the pay point and at the time of the payment by the customer. The stall fees shall also be paid and retained by ACM in this manner (see clause 7). ACM shall pay to the trader the balance standing to his credit on a monthly basis, which basis is subject to change at the sole discretion of ACM on one months notice;
- 8.7 To the extent that ACM may for any reason have any legal liability to the trader sounding in money such **liability shall be limited** in the aggregate to the trader in the sum of R1000 (one thousand rand) or one months traders fees whichever is the greater;
- 8.8 ACM have the right to require and to receive from the trader, an amount equal to 25% of the total consideration payable to the trader, as a condition for the granting of consent to the assignment (including cession) of the trader's rights to any third party, it remaining at all times the sole right of ACM to refuse such consent and such assignment;
- 8.9 ACM shall pay to the trader on a monthly basis a sum of money (if any) calculated as follows:  
**Turnover excluding VAT – (rentals + VAT + applicable percentage of turnover + VAT + credit card commission + VAT) = Amount payable. The payment will be made in a manner at the discretion of ACM.**
- 8.10 The trader acknowledges that he has been provided with a copy of these conditions of trade and fully understands the terms thereof.

\_\_\_\_\_  
Signature of trader/or trader representative

Full name : \_\_\_\_\_

Date : \_\_\_\_\_

Place : \_\_\_\_\_

# DEBIT ORDER INSTRUCTION

From : B & B Essenwood (Pty) Ltd, Adreach House, 33a Bath Avenue, Rosebank, 2193

Name .....

Tel. No. ....

Address .....

.....

Stall No .....

Bank .....

Branch name and town .....

Branch Number

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Account Number

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Type of Account : Current (Cheque) / Savings / Transmission (Delete where not applicable)

I/we hereby request, "instruct" and authorize you to draw against my/our account with the above mentioned bank (or any other bank or branch to which I/we may transfer my/our account) the sum according to the following formula : **NO. OF STALLS OCCUPIED IN A PARTICULAR STALL AREA X NO. OF DESIGNATED TRADING DAYS IN A GIVEN MONTH X B&B MARKETS DAILY CHARGE = (stall rental + table rental (if applicable) + y storage rental + chair rental + electricity (if applicable) including VAT).** This amount is to be debited to my/our account on the **26<sup>th</sup> day of each and every month, continuing until such time as the stall is relinquished to you in writing.** All such withdrawals from my/our bank account by you shall be treated as though they had been signed by me/us personally.

I/we understand that the withdrawals hereby authorized will be processed by a computer through a system known as the ACB Magnetic Tape Service, and I also understand that details of each withdrawal will be printed on my bank statement or on an accompanying voucher.

I/we agree to pay any bank charges relating to this debit order instruction.

January stall fees will not be processed on the 26<sup>th</sup> December of each year but will be processed on the **8<sup>th</sup> December of each year.**

Rentals are subject to an annual escalation which shall be determined by B & B Markets Rooftop (Pty) Ltd. The annual escalation shall take effect from the 1<sup>st</sup> October of each year.

This authority may be cancelled by me/us by giving you thirty days notice in writing, sent by prepaid registered post, but I/we understand that I/we shall not be entitled to any refund of amounts which you have withdrawn while this authority was in force if such amounts were legally owing to you. Receipt of this instruction by you shall be regarded as receipt thereof by my/our bank (whichever it is or will be)

Signed at..... on this the ..... day of ..... 200 \_\_\_\_ .

.....  
**SIGNATURE AS USED FOR SIGNING CHEQUES**

.....  
**Assisted by (where legally necessary)**

.....  
**Capacity**

**Note :** A cancelled cheque should be attached for bank identification purposes. (Current account only)

The user may add to the above minimum requirements.