

## LICENCE AGREEMENT

The PARTIES to this agreement:

**NEW HEIGHTS 510 cc**

2008 / 176089 / 23

(Herein referred to as "NHF")

Of

P O Box 1583, Wandsbeck, 3631

Represented herein by Rocky Pretorius

And

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ID No / Reg No / Trust Reg No \_\_\_\_\_

(Herein referred to as the "Licensee")

Of

( Address)

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Represented herein by .....

With ID Number .....

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**WHEREAS:**

1. NHF has created a business system for the purpose of establishing and operating a unique network of specialists in the financing solutions market and is the owner of certain intellectual property rights used in conjunction with the business systems.
2. The Licensee desires to establish and operate the business of a financing solutions specialist and for this purpose to use NHF's business system and intellectual property rights.
3. NHF hereby licenses such use subject to the terms and conditions of this agreement.

**IT IS AGREED:****1. DEFINITIONS**

Unless otherwise determined by the context, the following words will bear the meanings set forth against them:

- 1.1 **FINANCING SOLUTIONS SPECIALIST** means an intermediary acting on behalf of a third party ( client) with the aim to obtain a home loan, finance, bridging finance, loans, advances, financial instrument and / or similar financial solutions, from a credit provider or financial institution, for and on behalf of the third party.;
- 1.2 The **BUSINESS SYSTEM** means the system of operating the network of financing specialists in the financing solutions marketed, devised and originated by NHF, and includes any improvements or valuations made to the business system;
- 1.3 The **COMMENCEMENT DATE** means the date on which the License Agreement is signed by all the relevant parties;
- 1.4 The **LICENCE TERRITORY** means a defined geographical Territory within which to operate, being South Africa;
- 1.5 The **INTELLECTUAL PROPERTY** includes, but is not limited to:
  - 1.5.1 The designs;
  - 1.5.2 The know-how;
  - 1.5.3 The copyright;
  - 1.5.4 The goodwill;
  - 1.5.5 The trade dress;
  - 1.5.6 The trademarks;
  - 1.5.7 The trade secrets;
  - 1.5.8 The patents;
  - 1.5.9 The Credit Providers details

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- 1.6 The **CREDIT PROVIDERS** mean the institutions, private companies, individuals and semi-private companies that consider applications for loans and finance for NHF and NHF's Licensee's and their clients.
- 1.7 The **KNOW-HOW** includes all, credit providers, service providers, contacts used by NHF, confidential technical and commercial information relating to the operation of the business system existing from time to time, including, without limitation, information contained in the documents together with unrecorded information known to individuals who are office bearers or employees of NHF; technical information includes all specifications, contacts, service providers, credit providers, methods of assessment, minimum criteria applied and formulae developed by NHF;
- 1.8 The **TECHNICAL EXPERTISE** means the teaching of the designs, patents and copyright well as the know
- 1.9 The **PREMISES** means the premises from which the Licensee is to operate the business;
- 1.10 The **TERMINATION DATE** means the date upon which the license will terminate by the effluxion of time;
- 1.11 The **TRADE DRESS** includes the set-up for any goods, labels and packaging as well as the particular form of design and décor of premises from which the licensed business is conducted;
- 1.12 The Licensees **CUSTOMER BASE and or SOURCES** of business means the clients referred to NHF which remains the property of the specific Licensees;
- 1.13 The **TRADE SECRETS** include all confidential information of whatever nature relating to the business of NHF and its other Licensees, the business system and the intellectual property;
- 1.14 **FINAL GRANT** means the formal approval by a credit provider or Financial Institution of a loan or a home loan that was applied for by a Licensee or NHF for and on behalf of a third party;
- 1.15 **REGISTRATION** means the formal registration of a bond in the Deeds Office in favour of a Financial Institution pertaining to a formally granted home loan as described in 1.13 above.

## 2. GRANT OF LICENCE

NHF hereby grants to the license for the duration of this agreement to operate the licensed business from the premises strictly in accordance with and subject to the terms and conditions of this agreement. The license will commence with effect from the commencement date and terminate on the termination date unless otherwise terminated in accordance with the provisions of this agreement.

## 3. TERM OF AGREEMENT

This agreement will commence upon its signature by both parties and continue for an unlimited period unless terminated in terms of this agreement.

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#### **4. TITLE TO THE INTELLECTUAL PROPERTY**

The Licensee acknowledges that all rights title and interest in and to the intellectual property vests in NHF and its channel licensor and that it has no claim of any nature in and to that intellectual property. All benefits arising out of the use of any items of the intellectual property by the Licensee pursuant to this agreement shall inure to the benefit of NHF. It is however stipulated that NHF will be obliged to pay the Licensee commission as described in paragraph 7 hereunder.

#### **5. PRODUCTION**

No minimum production is set for the first 12 (twelve) months of this agreement and NHF reserves the right to set minimum targets thereafter.

#### **6. DUTIES OF NHF**

##### **6.1 NHF will:**

- 6.1.1 Disclose the business system to the Licensee;
- 6.1.2 advise the Licensee of the following matters relating to the establishment of the business on the premises:
  - 6.1.2.1 In consultation with the Licensee, will determine which of the Licensee's employees will undergo training in the business system. The extent and duration of any training will be determined by NHF. NHF will provide such training free of costs to these persons. However, the Licensee will be responsible for the payments of all expenses related to training.
  - 6.1.2.2 Will disclose improvements and developments in the business system to the Licensee and will provide free of charge such further training to the Licensee and other persons enhanced in the conduct of the business as NHF considers necessary. The Licensee will be responsible for all the expenses of the persons undergoing such training, including travel expenses and subsistence as well as their salaries payable during the period of training.
  - 6.1.2.3 Will assist the Licensee in endeavouring to overcome problems which the Licensee may experience in operating the licensed business.
  - 6.1.2.4 Will make available to the Licensee all services and facilities which NHF makes available to its other Licensees.
  - 6.1.2.5 Be totally transparent regarding any payments due and paid at the end of any relevant period.
  - 6.1.2.6 be responsible to claim commission from the client, and / or relevant channel licensor and / or Financial Institution / credit provider on behalf of the Licensee and the payment of commission to the Licensee as indicated in Addendum A attached hereto or by other arrangement as agreed to in writing by both parties hereto.

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## **7. ROYALTIES AND COMMISSION**

- 7.1 In consideration for the rights granted to the Licensee in terms of this license agreement, the Licensee acknowledge that NHF will deduct its portion of fees / commissions received, prior to paying the Licensee any commission, as set out in Annexures A and / or B.
- 7.2 Commission will be claimed and paid monthly in arrears.
- 7.3 All payments will be inclusive of Value Added Tax (VAT) provided that the Licensee is a VAT registered Vendor. VAT will be deducted from the commission if the Licensee is not a registered VAT vendor.
- 7.4 All commissions will be dependent on receipt of payment from the relevant Financial Institution, Bond Originator, Credit Provider, or relevant funder, or where none from the lender, then receipt from the Licensee's client.
- 7.5 All commissions are subject to negotiation and / or change depending on credit provider commission payments and earnings and clients willingness to pay commissions. In this regard, the Licensee acknowledges that all commissions are negotiable with the provider of credit or and / or the client.
- 7.6 No notice will be given to the Licensee with respect to changes in commission amounts or percentages.
- 7.7 Costs incurred by NHF, in respect of submission fees, processing costs, extraordinary expenses, travel, accommodation, communication and time costs, are deducted prior to the commission apportionment and subsequent payment to the Licensee.

## **8. OBLIGATION OF THE LICENSEE**

- 8.1 The Licensee will operate the licensed business strictly in accordance with the business system and will adhere strictly to the written specifications and directions as may be laid down or given by NHF from time to time.
- 8.2 The Licensee will ensure that the licensed business conforms with other licensed businesses operated in accordance with the business system. The Licensee will protect and promote the goodwill associated with the licensed business and all goodwill generated by the conduct of the licensed business will inure to the benefit of NHF.
- 8.3 The Licensee will not divulge or permit to be divulged to any person any aspect of the business system, the know-how or the trade secrets otherwise than for the purposes of this agreement. NHF may give written notice to the Licensee and specify which of the Licensee's employees are required to sign a secrecy undertaking.
- 8.4 The Licensee will not do, cause or permit anything to be done which may adversely affect NHF rights in the intellectual property. The Licensee will bring to the attention of NHF infringement of the intellectual property, which may come to his attention. The Licensee will give all reasonable assistance to NHF to enable the latter to further or defend its rights in the intellectual property.

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- 8.5 The Licensee acknowledges that NHF is the owner of all rights of whatever nature in the intellectual property and that he has no claims of any nature to either the business system or to any element of intellectual property. The Licensee shall not at any time attack or challenge the rights of NHF to the intellectual property or induce or procure any other person to attack or challenge such rights.
- 8.6 While this agreement remains in force, the Licensee will not engage directly or indirectly in any capacity in any other business venture which is in the nature of the licensed business, without the prior written consent of NHF. This includes, but is not limited to, any arrangement with a Bond Originator, Financial Institution, Financial Intermediary or Credit Provider.
- 8.7 The Licensee will comply in the conduct of the licensed business with all applicable laws, bylaws and regulations of any competent authority. The Licensee will maintain the premises in a good, clean and sanitary condition.
- 8.8 The Licensee will indemnify NHF and keep it indemnified against all claims of whatever nature, whether real or imagined, criminal or civil, together with any legal fees and costs incurred by NHF, which resulted from the conduct of the Licensee which is **not** in accordance with the specifications and regulations laid down by NHF.
- 8.9 The Licensee must produce any documentation relevant to a claim for commission within 5 business days after being requested to do so by NHF. Failure to comply with this request may result in the non-payment of said commission.
- 8.10 The Licensee will maintain such policies of insurance as may be stipulated by NHF from time to time ensure that all insurance premiums are paid promptly.
- 8.11 The Licensee shall establish an independent network within the specific territory and acknowledges that the name and image projected, as well as the manner and usage thereof, may in NHF discretion be altered in consultation with the Licensee at any time during the duration of this agreement or any subsequent renewal of this agreement.
- 8.12 The Licensee acknowledges the right of NHF to market any additional products to any client of the Licensee, provided that NHF will reimburse the Licensee as per the Annexure A attached hereto.
- 8.12 The Licensee may not give advice on any product NHF offers to any of its clients or associated, unless the Licensee is qualified in terms of all relevant laws and regulations in South Africa wrt the provision of financial and related, advice. The Licensee may only refer clients to NHF's who in turn will refer the enquiry to accredited and suitably qualified credit providers who will provide the client so referred, with advice.

## **9. CONFIDENTIALITY**

- 9.1 The Licensee undertakes to maintain the confidentiality of the information imported to it by NHF pursuant to this agreement, including the know-how and the Licensee will not divulge or permit to be divulged to any person any aspect of such confidential information otherwise and for the purposes of this agreement

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## **10. SUB-LICENSING**

A License is personal to the Licensee who may however enter into any sub-license of any part of the business system or intellectual property but with the prior written approval of NHF. In the case where a Sub-license is approved by NHF, the following will apply:

- 10.1 The Sub-Licensee will be identified by the Licensee by adding his name to an addendum to this Agreement or by notifying NHF by fax or email of the name, ID number, tel, fax and email address of such Sub-Licensee
- 10.2 The Sub-Licensee may source business any place within the Republic of South Africa or as prescribed by the Licensee.
- 10.3 No Sub-Licensee will be allowed to deal directly with any Financial Institution, lender, credit provider or funder that NHF has introduced to the Licensee, in any matter. All queries relating to an application for a bond, home loan, finance or financial instrument of any sort, must be directed through the Licensee.
- 10.4 The Licensee acknowledges that this agreement is not binding on any Sub-Licensee and the Licensee will be responsible for the conduct of the Sub-Licensee. NHF reserves the right to cancel any Sub-license with the Licensee with 5 business days notice.
- 10.5 NHF acknowledges that the Sub-Licensee is the exclusive property of the Licensee and may not influence this relationship to the detriment of the Licensee and the benefit of NHF.

## **11. TERMINATION**

- 11.1 NHF will be entitled to terminate this agreement on notice to the Licensee in the event of:
  - 11.1.1 the Licensee at any stage disputing the right of NHF to claim commission on behalf of the Licensee from any channel licensor or Financial Institution and/or dispute the right of NHF to deduct a royalty as described in par.7 above;
  - 11.1.2 if the Licensee commits an act of insolvency or is sequestrated or is placed under provisional or final winding up or judicial management order or if the Licensee makes an assignment for the benefit of his creditors, or fails to satisfy or take steps to have set aside any judgment taken against the Licensee, within 7 (seven) days after such judgment have come to the notice of the Licensee;
  - 11.1.3 if any material change will occur in the management, ownership or control, of the licensed business or with the Licensee otherwise than in accordance with the provisions of this agreement, provided that NHF did not condone or agree to such change in management, ownership or control;

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- 11.1.4 the Licensee attacks or challenges the rights of NHF to the intellectual property or includes or procures any other person to make such challenge or attack;
  - 11.1.5 the Licensee does not adhere to the business system provided by NHF;
  - 11.1.6 Any matter that places NHF in disrepute and the Licensee failing to comply (within 10 business day after receipt of) a notice from NHF, requesting the relevant rectification.
  - 11.1.7 Failure to comply with any obligation described in par 8 of this agreement, within 10 business day of receipt of a notice from NHF requesting such compliance.
- 11.2 This agreement may be terminated voluntarily by 30 days notice by either party.
- 11.3 The termination of this agreement, for whatever reason, will not affect the rights of a party (except for those in para 11.4 below) which may have accrued as at the date of termination and will further not affect any rights and obligations which specifically or by their nature, survive the termination of this agreement, and specifically NHF shall be entitled to normal commission payments on deals approved by the Credit Providers that NHF has introduced to the Licensee during the course of this agreement, for a period of 4 (four) years from date of termination of this agreement.
- 11.4 In the event of the termination of this agreement for whatever reason, the Licensee will not dispose of any item bearing the trade marks of NHF, without prior written consent of NHF and such consent may be given on such conditions as NHF may deem fit.

## **12. ACKNOWLEDGEMENT BY THE LICENSEE**

The Licensee acknowledges that the success of the business venture undertaken by him in terms of this agreement depends in a large extent upon his own business ability. The Licensee acknowledges that NHF has made no warranty, express or implied, as to the potential success of the licensed business and the Licensee further acknowledges that they are not employed by NHF and act as an independent party or contractor and have no rights to claim compensation other than that which is indicated in this agreement.

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**13. DOMICILIUM CITANDI ET EXECUTANDI** The parties choose as their domicile address for all purposes including the service of court process the following:

**15. GENERAL**

No waiver by a party of any breach, failure or default in performance by the other party, and no failure, refusal or neglect by a party to exercise any right hereunder or to insist upon strict compliance with or performance of the other party's obligations under this agreement and a party may at any time require strict compliance with the provisions of this agreement. This agreement constitutes the entire agreement between the parties who acknowledge that there are no other oral or written understandings or agreements between them relating to the subject matter of this agreement. No amendment or other modification of this agreement shall be valid or binding on a party hereto unless reduced to writing and executed by both parties hereto.

**16. GOVERNING LAW**

This agreement shall be governed in accordance with the laws of South Africa and the parties agree to magisterial jurisdiction to execute their rights in terms of this agreement.

SIGNED AT ..... ON THIS ..... DAY OF ..... 20.....

**AS WITNESSES:**

1. ....

2. ....

.....  
**NHF**

SIGNED AT ..... ON THIS ..... DAY OF ..... 20.....

**AS WITNESSES:**

1. ....

2. ....

.....  
**LICENSEE**

**ANNEXURE A****COMMISSION STRUCTURE**

Percentages and values to be paid to Lead Providers are **subject to change without notice due to Credit Providers' conditions.**

Fees to Licensee on all categories which include but are not limited to the list below, attract a minimum once-off commission of 20 % up to 50 % of the fee negotiated with and agreed to by NHF and the Credit Provider. This fee payment, variance and amount to be paid to the Licensee, **is at the sole discretion of NHF and only paid once the fee has been received by NHF**

Typical Finance products offered, but NHF is not limited to these products and will offer new solutions in response to Licensee clients' needs. Expenses incurred by NHF in securing the relevant finance, will be deducted off the commission received and then the split and apportionment of the commission will be made.

**Products Offered :**

Home Loans  
 Property Sellers Proceeds  
 Estate Agent's Commission advances  
 Switch Bonds / Further Bonds  
 Transfer Duty and Rates Bridging  
 Property Equity Release  
 Pension / Provident Fund Bridging  
 Invoice Discounting / Bridging  
 Property Secured Bridging  
 Property Mezzanine Finance  
 Panel Beaters Bridging  
 RAF Bridging Loans  
 Personal Loans  
 Property Partnership Program  
 Purchase Order Bridging  
 Property Development Finance  
 Levy Bridging – Body Corporates  
**Business Loans - Secured and Un-Secured Business Loans**

**Commercial Property Finance :**

All commercial property finance such as Industrial, Office, Retail, Hotels, Blocks of flats.

**Business Systems Improvement :**

Document Management, Forex Risk Management and Systems improvement products.

**Financial Instruments**

MT 760, Bank Guarantees, MT 103, MT 799, SBLC, ILC, LC and others

**Guarantees**

Bonds, Performance Bonds, Security Bonds, Bank Guarantees, Advance Payment Bonds and various other related instruments

**Litigation Finance**

Funding for litigation on a No Success - No Fee basis (the plaintiff does not pay any fees to litigate) where the claim is in excess of R 25 million and the fees are in excess of R2,5 million

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**New Heights 510 cc t/a New Heights Finance Licensee Registration Form**

I/ we the undersigned (persons name)

ID Number \_\_\_\_\_

with Residential Address \_\_\_\_\_

Of company / cc / trust / partnership

Reg No \_\_\_\_\_

Trading under the name of

With directors / shareholders / members / trustees /partners

Represented herein by

In his / her capacity as director/ member / trustee / partner and duly authorised by a Resolution of the Company / CC / Trust / Partnership hereby declare that the following information is true and correct.

Registered Address : \_\_\_\_\_

Business Postal Address : : \_\_\_\_\_

Contact Person :

Name : \_\_\_\_\_

Surname : \_\_\_\_\_

Tel \_\_\_\_\_

Fax \_\_\_\_\_

Cell \_\_\_\_\_

Email \_\_\_\_\_

Website \_\_\_\_\_

Income Tax No. \_\_\_\_\_

VAT No. \_\_\_\_\_

Bank \_\_\_\_\_

Branch \_\_\_\_\_

Branch Code \_\_\_\_\_

Account Number \_\_\_\_\_

Account Holder Name \_\_\_\_\_

Signature \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_