

Non-Bank Financial Institutions Regulatory Authority (Leasing Companies) Regulations, 2017

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Part I
Preliminary

1. Title

These Regulations may be cited as the Non-Bank Financial Institutions Regulatory Authority (Leasing Companies) Regulations, 2017, and shall come into operation on such a day as the Minister may by order published in the Gazette, appoint.

2. Interpretation

In these Regulations, unless the context otherwise requires:

“**Act**” means the Non-Bank Financial Institutions Regulatory Authority Act, 2016;

“**Asset**” means property that is non-consumable, equipment, goods, property that can be legally sold or imported into Botswana, that becomes the subject matter of a Finance Lease Agreement, whether or not the asset has become a fixture to or incorporated in land and also immovable property, natural resources, trademarks and copyrights or other moral rights to intellectual property, computer software, but does not include shares, investment securities, any financial instrument, government bonds and securities;

“**Companies Act**” means the Companies Act Cap 42:01;

“**Finance Lease Agreement**” means a contract made between two parties, where one of the parties known as the Lessor, in exchange for money consideration in the form of periodic rental payments, leases an Asset to another party known as the Lessee; with or without an option to purchase all or part of the Asset. The term includes a Sub-Lease, Sale and Lease Back Transaction and Micro-Lease,

“**Leasing Activities**” means a lease, not being an operating lease, with respect to which:

- (a) the Lessee specifies the Asset and may select the Supplier;
- (b) the Lessor acquires the Asset to be leased to the Lessee and the Supplier has knowledge of that fact while the Lessor keeps ownership or title rights of the Asset, the possession and use of the Asset is transferred to the Lessee once the lease transaction is consummated;
- (c) the rentals or other charges payable under the lease take into account the amortisation of the whole or a substantial (at least 75%) part of the investment of the lessor, and the lease period covers substantial(at least 75%) of the life of the asset
- (d) matters concerning the disposal of the Asset after the expiry of the Finance Lease Agreement, including an option given to the Lessee to purchase the Asset, are agreed upon between the parties;

“**Leasing Entity**” means a company registered under the Companies Act, and licenced by the Regulatory Authority to carry out leasing operations.

“**Leasing Operations**” means operations providing Leasing Activities;

“**Lessee**” means a person who enters into a Finance Lease Agreement with a Lessor and includes its successor, assignee and sub-lessee;

“Lessor” means a person who enters into a Finance Lease Agreement with a Lessee, and whose company is licenced under Regulation 4 to provide Leasing Activity;

“Micro Lease” means the leasing of a low cost Asset used for micro-enterprises;

“Sub-Lease” means where a Lessee can also operate as a Lessor for the benefit of a second and subsequent Lessee;

“Sale and Lease Back” means where a Lessee, in an additional capacity as Supplier of an Asset, sells the Asset to a Lessor and leases it back from the Lessor;

“Supplier” means a person from whom a Lessor acquires as Asset for lease under a Finance Lease Agreement;

“Supply Agreement” means an agreement under which a Lessor acquires an Asset for lease under a Finance Lease Agreement whether the acquisition is by way of sale, supply or purchase.

Part II

Licencing Requirements

3. Prohibition to conduct unlicensed business of Leasing

- (1) No person shall carry out a business as a finance company without a licence issued by the Regulatory Authority.

Any person who contravenes the provisions of sub regulation (1) commits an offence and on conviction is liable to a fine not exceeding P5000 for each day on which the offence occurs or continues to occur or to imprisonment for a period not exceeding five years, or to both.

4. Application for a Licence

- (1) An application for a licence to carry out Leasing Operations shall be made to the Regulatory Authority in Form 1 set out in the Schedule 1.
- (2) An application for a licence under Subregulation (1) shall be accompanied by:
 - (a) the full personal details, qualifications, experience and economic interests of its proposed/potential:
 - (i) controller,
 - (ii) manager,
 - (iii) principal officer, and
 - (iv) other senior officers; or
 - (b) full personal details, qualifications, experience, economic interests and occupation of the recommended:

- (i) directors of its board,
 - (ii) shareholders of the applicant, and
 - (iii) ultimate beneficial holders of the applicant;
- (c) constitution of the applicant;
- (d) any evidence of human resources sufficient to efficiently operate and manage its operations;
- (e) any evidence of the minimum financial requirements as provided in Regulation 6;
- (f) policies and procedure manuals that will be used by the Leasing Company showing the internal controls and the procedures that will be followed in operating the business;
- (g) a detailed business plan which shall *inter alia* set forth:
- (i) the objectives and aims of the Leasing Company;
 - (ii) a five-year financial projections for the Leasing Company, indicating its expected growth and profitability;
 - (iii) details of the assumptions upon which the financial projections are made;
 - (iv) the proposed training programme for staff and management succession; and
 - (v) the organisational structure of the Leasing Company, setting out in detail, the functions and responsibilities of the management team;
- (h) a non-refundable application fee of Pula 10,000 or as prescribed in by the Regulatory Authority from time to time.

- (i) Additional information as may be required by the Regulatory Authority under the Act and these Regulations.
- (j) certificate of incorporation from Registrar of Companies
- (k) copy of a document showing income tax registration number
- (l) a copy of title deed or lease agreement for the premises where the applicant is going to carry out business
- (m) a copy of any other registration or licensing certificate (if applicable)
- (n) copy of latest financial statements of the business (if already conducting finance business)

5. Determination of a licence

- (1) Where the Regulatory Authority is satisfied that the applicant has:
- (a) complied with the requirements of Regulation 4as may be applicable; and

- (b) demonstrated the capacity to meet the obligations and compliance requirements as provided for under these Regulations,

it shall, within 90 days of receiving the complete application and additional information requested, issue a licence to the applicant in Form 2 set out in the Schedule 2 as may be applicable.

6. Duration and validity of a licence

- (1) A licence issued under these regulations shall remain valid unless cancelled, revoked or surrendered to the Regulatory Authority.

7. Opening of a Branch

- (1) A Leasing Company issued with a licence under these regulations may apply to the Regulatory Authority for an approval to open a branch of the Leasing Company in Form 3 as set out in the Schedule 3, and such application shall be accompanied by an application fee of Pula 5000 or as prescribed by the Regulatory Authority.

8. Rejection of a licence

- (1) Where the Regulatory Authority rejects the application, it shall, in writing provide the applicant with an explanation of the ground upon which the rejection is based.

9. Appeal against rejection of a licence

- (i) Any person aggrieved by the decision of the Regulatory Authority not to grant a licence under these Regulations, may appeal against the decision in accordance with Part X of the Act.
- (ii) An applicant whose application has been rejected may re-apply, if the deficiencies that formed the basis for rejection of the application have been corrected or otherwise addressed.

10. Conducting of business at aspecified place

- (1) A finance company shall conduct its business at the premises authorised by the Regulatory Authority.

11. Conditions of a license

- (1) A licence may be issued subject to such terms and conditions as the Regulatory Authority may impose in accordance with the Act and these Regulations.

12. Display of a License

- (1) A finance company shall display or exhibit its licence in a conspicuous place on the authorised place where it conducts its business.
- (2) A finance company shall display a certified copy of its licence in a conspicuous place on the authorised address of every branch where it conducts its business
- (3) A person who contravenes sub-regulation (1) or (2) commits an offence and shall be liable, to a fine not exceeding P5000.

13. Restriction on Transfer of a licence

- (1) A licence shall not be transferred, assigned or encumbered in any way unless authorised by the Regulatory Authority:

Provided that licence may be transferred in the event of an amalgamation or similar corporate restructuring transaction, on such terms and conditions as the Regulatory Authority may approve.

- (2) A person shall not operate or manage a leasing company on behalf of another person, without the prior written approval of the Regulatory Authority

- (3) Any person who contravenes sub-regulations (1) or (2) commits an offence

14. Revocation of License

- (1) The Regulatory Authority may revoke a licence if —
 - (a) it appears to the Regularity Authority that the information provided in the application for the licence is fraudulent or contains a materially false statement; or

(b) the licensee has failed, within a period of twelve months from the date of issuance of the licence, to commence business under the licence; or

(c) the licensee is seriously or persistently in breach of any provision of these Regulations; or

(d) the licensee has failed to comply with any condition of its licence or with any directive of the Regulatory Authority; or

(e) the licensee has ceased to conduct the business authorised by its licence.

(2) Where a licence is revoked, the licensee shall surrender to the Regulatory Authority each copy of the licence on display in every place of business of the licensee and the Regulatory Authority shall as soon as practicable publish a notice of the revocation in the Gazette and in a newspaper of general circulation in Botswana.

(3) The Regulatory Authority may take such additional steps as it considers necessary to inform the public of the revocation.

(4) Any person aggrieved by the decision of the Regulatory Authority to revoke a licence may appeal to the Tribunal constituted under section 50 (1) of the Act.

(5) A decision of the Regulatory Authority shall remain in force unless reversed or suspended by the Regulatory Authority, or suspended/and or set aside by the Tribunal or by any court of competent authority.

(6) A person whose licence is revoked shall not continue to operate as a leasing entity or conduct any leasing business.

(7) Any person who contravenes sub-regulation (6) commits an offence and shall be liable, upon conviction, to a fine not exceeding P5000 for each day on which the offence occurs or continues to occur or imprisonment not exceeding five(5) years, or both.

15. Licensee to honour obligations in spite of revocation of licence

- (1) The revocation of a licence shall not relieve the licensee of any obligation incurred or assumed by the licensee during the period of validity of the licence.

16. Requirement to befit and proper

- (1) All key persons of the a Leasing Company to be licensed under these Regulations shall demonstrate, at time of application and whenever requested to do so, that they satisfy the requirements of the fit and proper tests as prescribed by the Regulatory Authority from time to time.

Part III – Governance of Leasing Companies

17. Leasing Company Incorporated

- (1) All leasing operations in the Republic of Botswana shall be carried out by locally registered proprietorships and corporate entities incorporated in Botswana.

18. Ownership and Control of Leasing Companies

- (1) Multinationals and citizen controlled companies satisfying the requirements of regulation 17 shall be eligible for application of a license.

19. Board of Directors

- (1) A Leasing Company shall have a board of directors constituting of not less than three members, the majority of whom shall be permanent residents in Botswana. In addition, at least one director will be independent director
- (2) Members of a board of directors should be capable of demonstrating an understanding of the Leasing Company's financial position and reporting requirement.
- (3) The board of directors of the Leasing Company shall meet at least once quarterly for the transaction of its business.

20. Management of leasing company

- (1) The management of a leasing company shall include at least a:
 - (a) a chief executive officer, and

(b) a chief financial officer.

(2) The positions referred to in sub-regulation (1) shall not be held by one person.

21. Qualifications of Directors or persons in management

(1) A person shall not be appointed as a director, chief executive officer, chief financial officer or manager of a leasing company if that person does not meet the requirements of the fit and proper rules as outlined by the Regulatory Authority.

22. Notice in Change of Shareholding, directors and senior managers

(i) A leasing company shall not without the prior written approval of the Regulatory Authority make any changes regarding its shareholders, and controllers.

(ii) A person shall not, without the prior written approval of the Regulatory Authority—

(a) acquire any beneficial interest in the voting shares of such a leasing company; or

(b) enter into any voting trust or other agreement; that would enable that person or another person to control more than fifty per centum of the total votes cast on any general resolution at a general or special meeting of a leasing company.

23. Suspension and Removal of Directors

(1) The Regulatory Authority may, by notice to the leasing company concerned, suspend, for a period determined by the Regulatory Authority, a director, chief executive officer, chief financial officer or manager of a leasing company for failure to take reasonable steps to secure the compliance by the Leasing Company with the requirements of these Regulations.

(11) The Regulatory Authority may direct a leasing company the removal from office of a director, a chief executive officer, a chief financial officer or a manager without first suspending such an officer.

24. Systems of Internal Controls

(1) A Leasing company shall, at all times maintain effective systems of internal control.

25. Prohibited business

(1) A licensed leasing company shall not be permitted to carry out the following business activities:

(i) deposit taking

(ii) non-financial activities such as trading, construction and project management; and

(iii) other financial services other than those prescribed above.

26. Closure of Leasing Companies

(1) A leasing company intending to close a place of business shall at least sixty (60) days before closing such place, notify the Regulatory Authority, in writing, of its intention to do so.

Part IV – Immunity of Regulatory Authority

27 Immunity of the Regulatory Authority

(1) No act, matter or thing done by the Regulatory Authority or any officer or person employed by the Regulatory Authority in the exercise or performance or purported exercise or performance, in good faith, of any power or function under these Regulations shall give rise to any action, claim, liability, suit or demand against the Regulatory Authority or any officer or person concerned.

Part V - Miscellaneous

28. Dispute Resolution

(1) A leasing company shall have a clear Dispute Resolution Policy and Procedure approved by the Regulatory Authority, which shall be displayed at a prominent position in each of the finance company premises.

(2) A leasing company shall ensure that the names and contact details of persons responsible for dispute resolution are clearly displayed on the leasing company premises.

- (3) A complainant shall submit any dispute in writing to the persons responsible for dispute resolution, and every attempt shall be made to resolve the dispute within a reasonable period of time.
- (4) A leasing company shall ensure that a record of the dispute is maintained, indicating the following;
 - (a) The name of the complainant
 - (b) The lease agreement number
 - (c) The date the dispute was lodged
 - (d) the outcome of the dispute indicating whether the complainant was satisfied or not.
- (5) Where a dispute is not satisfactorily resolved, the finance company shall ensure that the complainant confirms this in writing, and the finance company shall notify the Regulatory Authority within 30 calendar days of the unresolved complaint.
- (6) The record keeping of the dispute shall be a period of six (6) years.

29. Confidentiality of Information

- (1) No leasing company, any officer, employee, agent of a leasing company or any person who, by virtue of his or her professional relationship with the leasing company, has access to the records of the leasing company, shall during or after his or her

relationship with the leasing company, directly or indirectly disclose any information he or she may acquire in the course of his or her duties, concerning the borrowers transactions, personal information, financial or business affairs without the written and freely given consent of the borrower or his or her personal representative.

- (2) The provisions of sub-regulation (1) shall not apply where-
- (a) the borrower is declared bankrupt in Botswana and the information is required in bankruptcy proceedings;
 - (b) the information is required in any legal proceedings;
 - (c) the information is required by an officer in the employment of the same leasing company in Botswana or by an auditor or a legal representative of the leasing company who requires, and is entitled to know, the information in the course of his or her professional duties;
 - (d) the information is required by another leasing company for the purpose of assessing the credit worthiness of a borrower and is required for assessment purposes only;
 - (e) the information is required in terms of any other law; or
 - (f) it is necessary to disclose the information in the public interest as approved by the Regulatory Authority.

30. Forwarding of Adverse Credit Information

(i) Where the Lessor intends to forward any adverse information relating to the lessee to a third party, the lessor shall, at least thirty (30) calendar days before forwarding the information, notify the lessee in writing, of such intention except where the adverse credit information is required under regulation 29(2).

(ii) The notification referred to in sub regulation(1) shall be addressed to the lessee's address set out in the lease agreement, or if the postal system is impractical, any other reasonable and appropriate means shall be used to deliver the notification.

(iii) where the amount owed by the lessee is in dispute, the lessor shall communicate that fact to the third party concerned together with the adverse credit information.

31. Supervisory Levies

(1) Every leasing company shall pay to the Regulatory Authority an annual non-refundable supervision levy as shall be advised by the Regulatory Authority maximum within 30 days days from the end of the Regulatory Authority's financial year.

32. Penalties

- (1) Subject to subsection (2) where a person
- (a) issues or takes part in the issuance of a document which is false in any material particular, the person and every other person who signed such document;
 - (b) Knowingly makes a false statement;
- commits an offence and shall be liable, upon conviction, to a fine not exceeding P20000 or to imprisonment for a term not exceeding two years, or to both.
- (2) A person does not commit an offence under this regulation if the person did not know and could not reasonably be expected to have known that the document was false when the person signed it, issued it or took part in its issue.
- (3) Any person who:
- (a) obstructs any person in the exercise of any power conferred upon the person under these Regulations;
 - (b) fails to provide information required under these Regulations;
 - (c) with intent to evade any provisions of these Regulations destroys, mutilates or hides any document; or
 - (d) contravenes a duty imposed by these Regulations;
- 2 commits an offence and is liable, upon conviction, to a fine not exceeding P50 000 or to imprisonment for a term not exceeding three (3) years, or to both.
- (4) Where the offence is committed by a body of persons:
- (a) in the case of a body corporate, every director or officer of that body commits an offence;
 - (b) in the case of a Leasing Company that is not incorporated, every manager, member of the board of directors commits an offence; unless the director, officer, manager proves to the satisfaction of the court that the act constituting an offence was done without the knowledge, consent or connivance of the director, officer, manager, or that, the person attempted

to prevent the commission of the crime having regard to the circumstances of the case.

- (5) Any person who contravenes the provisions of these Regulations for which no penalty is provided shall be liable, upon conviction, to a fine not exceeding P50 000 or to a term of imprisonment not exceeding three years, or to both.

- (6) An existing company that is not a registered as a Leasing Company but carrying on Leasing Operations among its activities shall be registered as a separate legal person carrying on the sole business of Leasing Activities in accordance with these Regulations and shall pay such application fee as may be determined by the Regulatory Authority.

Part VI – Disclosure

33. Disclosure of cost of borrowing

- (1) A leasing company that provides leasing facilities to a lessee shall at the time of providing the service, in a statement in writing, disclose to the customer concerned the cost of leasing.

- (2) The statement referred to in sub-regulation (1) shall be in Form 5, set out in the Schedule 4.

Part VII

Accounts, Records and Reports

34. Accounts

- (1) A Leasing Company shall keep all accounting records, in Botswana, as are necessary to exhibit clearly and accurately the state of its affairs and to explain its transactions and financial position so as to enable the Regulatory Authority to determine whether the Leasing Company concerned has complied with the provisions of these Regulations and any other relevant legislation.

- (2) Without prejudice to the generality of Subregulation (1), a Leasing Company shall maintain proper accounting records reflecting full details of all Assets leased, rentals charged, charges raised, rentals received and amounts outstanding.

- (3) A Leasing Company shall keep a signed copy of each Finance Lease Agreement and the register referred to in Regulation 35 for a period of not less than six years.

35. Maintenance of lease register

- (1) A Leasing Entity shall, in respect of every Finance Lease Agreement, maintain a register which shall contain the following details:
 - (a) Finance lease Agreement number or other reference to identify the agreement;

- (b) name and address of the Lessee;
- (c) principal amount of rental amount in terms of the Finance Lease Agreement;
- (d) date on which the Asset was delivered;
- (e) amount of each rental payment;
- (f) number of rental payment;
- (g) total amount payable in respect of the Finance Lease Agreement;
- (h) penalties, charges and other incidental costs which are to be paid by the Lessee; and
- (i) statement showing in respect of each rental payment:
 - (i) the amount of rental payment made and date on which it was made, and
 - (ii) the balance outstanding after each rental payment.

36. Annual Returns

- (1) A Leasing Company shall, within 90 days of the end of its fiscal lender year, lodge with the Regulatory Authority, annual returns in Form 4 as set out in the Schedule.
- (2) The Regulatory Authority may, from time to time request a Leasing Company to lodge any other periodic returns or any other information.

37. Submission of Information to the Regulatory Authority

- (1) A Leasing Company shall within five business days, inform to the Regulatory Authority, in writing, where-
 - (a) the Leasing Company or any of its branches ceases to operate;
 - (b) the Leasing Company becomes unable to discharge any of its obligations promptly and in full;
 - (c) there is a change in contact numbers or address of the Leasing Company; or
 - (d) there is a change in the business affairs of the Leasing Company that has or may have a negative effect on the Lessees.
- (2) A Leasing Company shall, within 90 days of the end of its fiscal year, complete and submit to the Regulatory Authority, a compliance report in Form 5 as set out in the Schedule.
- (3) A Leasing Company who fails to submit any information required under these Regulations may be declared by the Regulatory Authority as not carrying on business with integrity, prudence and professional skill and shall be liable to a civil penalty to be imposed by the Regulatory Authority.

Part VIII - Relationship of the Parties

38. Form of a finance lease agreement

(i) A Finance Lease Agreement shall be in writing and be duly signed by the parties.

39. Finance lease agreement requirements

- (1) A Finance Lease Agreement shall contain among others the following provisions:
- (i) a description of the Asset to which the Finance Lease Agreement relates;
 - (ii) duration of the finance lease;
 - (iii) the date and amount of each rental or any other charge to be paid and or the mode of determining the date on which each rental or any other charge is payable;
 - (iv) rights and obligations of the parties;
 - (v) a clause on the insurance of the Asset and the cost of such insurance;
 - (vi) a statement that the Lessee acknowledges that the lessee holds the Asset as a mere bailee of the Lessor and that the Lessee does not have a proprietary right, title or interest in the Asset during the entire period of the lease;
 - (vii) a clause that on termination of the Finance Lease Agreement by expiry of time, unless a renewal is granted or the Lessor agrees to sell the Asset to the Lessee, the Lessee shall deliver to the Lessor the Asset in good order and condition, ordinary wear and tear excepted; and
 - (viii) a method of discounting the value of payments due at default using an annual rate.
- (2) Any provision in a Finance Lease Agreement whereby:
- (a) any person acting on behalf of the Lessor in connection with the conclusion of the Finance Lease Agreement or the negotiations which precede the conclusion of the Finance Lease Agreement, is constituted or deemed to be the agent of the Lessee;
 - (b) the Lessor is relieved from liability for any act, omission or representation of any person acting on his behalf in the said connection; and
 - (c) the liability of the Lessor in pursuance of any guarantee or warranty which would, but for such provision be implied in the Finance Lease Agreement is excluded or restricted.

shall be of no force and effect.

40. Rights and Duties of the Lessee

- (1) The Lessee shall:
- (a) where applicable provide the terms, conditions, or specifications of the Asset as well as quantity, installation and maintenance plan of the Asset;
 - (b) depending on the type of Asset, select a Supplier;

- (c) where the Lessor has entered into a Supply Agreement for the supply of the Asset, have the right to enforce the provisions of the Supply Agreement as if it were a party to the Supply Agreement except that the Supplier shall not be held liable to both the Lessor and the Lessee in respect of the same obligation;
 - (d) use the Asset for the purpose for which it is provided under the Finance Lease Agreement and have the right to use and enjoy undisturbed and peaceful possession of the Asset. However this shall not apply where a Lessee has, by any act or omission, ceased to be entitled to the right to undisturbed and peaceful possession of the Asset;
 - (e) pay to the Lessor, rentals and other charges payable under a Finance Lease Agreement;
 - (f) take proper care of the Asset supplied under the Finance Lease Agreement and where a manufacturer or Supplier of the Asset has issued instructions for the use and care of the Asset, comply with such instructions;
 - (g) keep the Asset in a condition in which it was delivered subject to fair wear and tear and any modifications agreed to by the parties to the Finance Lease Agreement;
 - (h) when a Finance Lease Agreement comes to an end or is terminated, the Lessee, unless exercising a right to buy the Asset or to hold the Asset on the Finance Lease Agreement for a further period, shall return the Asset to the Lessor in the condition specified in Subregulation (1)(f) above;
- (2) A lessee may terminate the Finance Lease Agreement where:
- (a) the Asset specified in a Finance Lease Agreement has not been delivered to a Lessee during the time fixed for its delivery;
 - (b) where applicable, the Asset delivered does not conform to the terms, conditions, warranties or specifications requested under Subregulation (1)(a); and
 - (c) where the Lessor has failed to comply with a provision of the Finance Lease Agreement or the Supply Agreement in such circumstances as would amount to a default under the Finance Lease Agreement.
- (3) The Lessee may withhold the payment where a Finance Lease Agreement is terminated under Subregulation (2).
- (4) The Lessee shall not reject the Asset or terminate the Finance Lease Agreement where the Asset has been accepted and utilised beyond a reasonable period of time notwithstanding that the Asset;
- (a) was not delivered within the time specified for its delivery; or
 - (b) does not conform to the terms, conditions, warranties or specifications in the supply agreement.
- (5) (a) A Lessee under a Finance Lease Agreement shall be a beneficiary of the Supply Agreement.
- (b) The rights of the Lessee under this Regulations and under the Finance Lease Agreement with respect to a Supply Agreement that was approved

by the Lessee, shall not be affected by a variation of any term of the Supply Agreement unless the variation is consented to by the Lessee.

- (c) If the Lessee did not consent to the variation, the Lessor is deemed to have assumed the duties of the Supplier to a Lessee that were so varied to the extent of the variation.
- (d) Nothing in this Regulations shall entitle the Lessee to negotiate a modification, termination or rescission of the Supply Agreement without the consent of the Lessor.

41. Rights and Duties of the Lessor

1. The Lessor shall:

- (a) provide the Asset to the Lessor and where applicable provide the Asset in accordance with the terms, conditions, or specifications of the Asset as well as quantity, installation and maintenance of the Asset as requested by the Lessee;
 - (b) upon request from the Lessee, enter into a Supply Agreement with a Supplier of an asset selected by the Lessee;
 - (c) grant the use of the Asset to the Lessee with or without an option to purchase in exchange of the payment of rentals and other charges by the Lessee;
 - (d) ensure that the Lessee enjoys undisturbed and peaceful possession of the Asset;
 - (e) fulfil all its obligations to the Supplier as provided in the Supply Agreement including payment of the purchase price as maybe applicable; and
 - (f) remedy and compensate all damages suffered by the Lessee where the loss arises out of:
 - (i) a breach in the Supply Agreement by the Lessor;
 - (ii) a breach of the Finance Lease Agreement by the Lessor; and
 - (ii) the Lessee's reliance on the Lessor's skill and judgement on the selection of the Asset or in the Lessor's intervention in the selection of the Supplier or in the specification of the Asset.
- (2) A Lessor may terminate the Finance Lease Agreement where the Lessee has failed to comply with a provision of the Finance Lease Agreement in such circumstances as would amount to a default under the Finance Lease Agreement.

42. Rights and Duties of the Supplier

1. Where applicable, the Supplier shall:

- (a) enter into a Supply Agreement with the Lessor for the supply of an asset under a Finance Lease Agreement;
- (b) fulfil its obligations under the Supply Agreement including the delivery of the Asset to the Lessor under terms, specifications and conditions set out in the Supply Agreement;

- (c) be released from any further obligations where the Supplier has discharged its obligations under a Supply Agreement and where there is no subsequent dispute from the Lessee with regards to the Asset.

Part IX - Leasing Operations

43. Acceptance of the Asset

1. Acceptance of the Asset occurs when the Lessee:
 - (a) signifies to the Lessor or the Supplier that the Asset conforms to the terms of the Finance Lease Agreement or the Supply Agreement;
 - (b) fails to reject the Asset after a reasonable opportunity to inspect it; or
 - (c) uses the asset for a reasonable time.
2. Unless the parties agree otherwise, after the Lessee has accepted the Asset, the Lessee is entitled to damages only from the Supplier if the Asset does not conform to the Supply Agreement.

44. Risk of Loss

1. Risk of loss passes to the Lessee when the Asset is delivered to the Lessee. For this purpose, delivery to the lessee occurs when:
 - (a) the Lessee or an agent of the Lessee is in actual receipt of the Asset;
 - (b) the Lessor or the Supplier makes available the Asset to the Lessee as provided in the Finance Lease Agreement or the Supply Agreement; or
 - (c) the Asset is delivered to a carrier named by the lessee.
2. However if the Asset is not delivered, partially delivered, delivered late or fails to conform to the provisions of the Finance Lease Agreement or the Supply Agreement and the Lessee enforces its remedies under the Finance Lease Agreement or the Supply Agreement, the risk of loss will remain with the Lessor or Supplier as applicable.

45. Assignment of Rights, Obligations and Interests

- (1) The Lessee may, with the written consent of the Lessor obtained at the time of entering into the Finance Lease Agreement or thereafter, transfer or assign all or any of the Lessee's rights under the Finance Lease Agreement in relation to the Asset.
- (2) The Lessor may, with the written consent of the Lessee obtained at the time of entering into the Finance Lease Agreement or thereafter, transfer or assign all or any of the Lessor's rights under the Finance Lease Agreement in relation to the Asset, to any Leasing Entity.

46. Priority of Liens

Except as otherwise provided by any other law:

- (1) a creditor of the Lessee and a holder of any interest in land or personal property to which the Asset becomes affixed, shall respect and be subordinated to the rights and remedies of the parties to the Finance Lease Agreement and cannot impair any interest arising under the Finance Lease Agreement.

a creditor of the Lessor shall respect and be subordinated to the rights and remedies of the parties to a Finance Lease Agreement, and in particular shall respect the undisturbed possession of the Asset by the Lessee, if the Lessee is complying with its obligations under the Finance Lease Agreement.

6. Minimum financial requirements

- (1) Any person applying to carry on a business as a Leasing Company shall have and maintain at all times a minimum financial balance of P300 000.
- (2) A person licensed as a Leasing Company under these Regulations shall demonstrate to the Regulatory Authority, when requested to do so, that the Leasing Company is financially solvent.
- (3) The Regulatory Authority shall determine the financial solvency of a Leasing Company by financial analysis conducted by the Regulatory Authority on the Leasing Company's operations from time to time.
- (4) The Regulatory Authority may declare a Leasing Company that has failed to maintain a minimum financial balance or to demonstrate its state of solvency as provided in subregulations (1) and (2) to be in an unsound financial position and may review the Leasing Company to determine whether it qualifies to continue to be licensed as a Leasing Company under these Regulations.
- (5) Where the Regulatory Authority, after reviewing a Leasing Company, is of the view that the Leasing Company is in an unsound financial position, it may suspend the Leasing Company's licence for the period specified in the written notice and the Regulatory Authority shall in so doing act in accordance with section 57 of the Act.

Part X

Default and Termination of the Finance Lease Agreement

47. Default or Failure to Perform

- (1) The parties shall agree to the events that constitute a default or otherwise give rise to the rights and remedies specified in law.
- (2) In the absence of such a provision in the Finance Lease Agreement, default occurs when one party fails to perform a duty arising under the Finance Lease Agreement or these Regulations.

48. Notice of Default

- (1) An aggrieved party shall prior to terminating the Finance Lease Agreement, serve notice of default on the defaulting party:
 - (a) specifying the default;
 - (b) appointing a date, not being a date less than seven days after the receipt of the notice, for remedying the failure referred to in sub regulation (1)(a).
- (2) Notice under Subregulation (1) above shall be given through means provided in the Finance Lease Agreement. If the Finance Lease Agreement does not provide for the giving of notice, any method used shall be valid provided that it can be ascertained that the defaulting party did receive the notice.

49. Damages for Default

Upon default, the aggrieved party is entitled to recover such damages as will, exclusively or in combination with other remedies provided by the law or the Finance Lease Agreement, place the aggrieved party in a position in which it would have been had the Finance Lease Agreement been performed in accordance with its terms.

50. Liquidated Damages

- (1) When a Finance Lease Agreement provides that a defaulting party is to pay to the aggrieved party, a specified sum or a sum computed in a specified manner for such default, the aggrieved party is entitled to such sum.
- (2) The sum may be reduced to a reasonable amount where it is grossly excessive in relation to the harm resulting from the default.
- (3) The court shall, in awarding damages for default, take into consideration Subregulations (1) and (2) and ensure that liquidated damages are not made effective for an amount which is grossly excessive.
- (4) Where the court finds a violation to the restrictions set out in Subregulation (1) and (2), the Regulatory Authority may impose, to the party that benefitted from a grossly excessive amount of damages, a compensatory fine for an amount equal to the excess of damages.

51. Termination

- (1) A Finance Lease Agreement may be terminated by:
 - (a) operation of law;
 - (b) fundamental default of the Supplier;
 - (c) an aggrieved party upon fundamental default by a Lessee or a Lessor;
 - (d) loss or irreparable damage of the Asset; and
 - (e) agreement of the parties.
- (2) Where the Finance Lease Agreement is terminated the lessor shall be entitled to take possession of the Asset. The Lessor may sever the Asset from immovable property or other movable property to which it is affixed, but in so doing the Lessor shall cause no more damage or inconvenience to persons in possession of the immovable or movable property than is necessarily incidental to the removal of the Asset.

- (3) The Lessor may dispose of the repossessed Asset or otherwise deal with it after fourteen days of repossession if the Lessee does not make an application to the court under Subregulation (4).
- (4) The Lessee may, within fourteen days of repossession, make an application to a court for return of the Asset taken by a lessor. Where the court determines that the Lessor was not entitled to terminate the Finance Lease Agreement or take possession of the Asset or if the lessee has tendered to the Lessor complete performance of the Lessee's obligations under the Finance Lease Agreement, the court may order return of the Asset to the Lessee.
- (5) Where the Finance Lease Agreement is terminated due to a default by the Lessee or the termination is occasioned by the conduct of the Lessee, the Lessor shall be entitled to retain all payments made by the Lessee under the Finance Lease Agreement and to recover from the Lessee immediate payment of the following amounts:
 - (a) lease payments owing at the date of termination;
 - (b) all charges for late payment provided for in the lease agreement;
 - (c) the present worth of all additional unpaid lease payments and other amounts payable to or at the expiry of the period of the lease, including any extension of it, determined as provided in the Finance Lease Agreement, and, in the absence of such provision, by discounting the value of these payments and amounts by an annual rate agreed between the Lessor and the Lessee in the Finance Lease Agreement.
 - (d) all other costs and expenses incurred by the Lessor provided for in the Finance Lease Agreement with interest thereon at the rate specified in the Finance Lease Agreement from the date the amounts become payable.
- (6) Where the lessor exercises its right to take possession of the Asset, the amount specified in Subregulation (5) shall be reduced by the difference between the equivalent fair market value of the Asset as of the earliest date the Lessor could reasonably have sold the Asset if it had been offered for sale at that time and, the residual value of the Asset as specified in the Finance Lease Agreement, and in the absence of such provisions, the estimated market value of the Asset at the end of the lease term.
- (7) Where the Lessor does not exercise a right to take possession of the Asset, the Lessor may recover, in addition to amounts specified in Subregulation (5), the residual value of the Asset as specified in the Finance Lease Agreement, and in the absence of such provisions, the estimated market value of the Asset at the end of the lease term.
- (8) Where a Finance Lease Agreement is terminated prior to its expiration due to a default by the Lessor, the Lessor shall be liable to pay damages caused to the Lessee as a reasonably foreseeable consequence of that breach.

PART X

Supervision of Leasing Companies (regs 37-41)

52. Inspection of Leasing companies

- (1) The Regulatory Authority or any person authorised by the Regulatory Authority, may at any time cause an inspection to be made of any leasing company and of its books or accounts at any place where the leasing company conducts its business.
- (2) The leasing company shall cause its books and accounts to be produced to an inspector and shall ensure that its staff furnishes such information as the inspector may reasonably require for the purposes of the inspection.
- (3) Any person who obstructs, hinders or endeavours to obstruct an inspector or hinder any inspection of a leasing company or its books and accounts commits an offence.

53. Reporting format and the frequency of reporting

- (1) The Regulatory Authority shall prescribe reporting formats and the frequency of reporting for a finance company, including:
 - (a) *Statement of Financial Position.*
 - (b) income statements; and
 - (c) such other information that the Regulatory Authority may consider necessary.
- (2) A leasing company which contravenes sub-regulation (1) commits an offence and shall be liable, to a fine not exceeding P100 000.00 and in the case of a continuing breach, to a fine of P500] for every day during which the breach continues.

54. Submission of information to the Regulatory Authority

- (1) A leasing company shall submit the following information to the Regulatory Authority, its shareholders and other interested persons:
 - (a) an audited financial statement or management accounts;
and
 - (b) any other such information that may be requested by the Regulatory Authority.
- (2) A leasing company intending to enter into any significant business arrangement, joint venture or financial arrangement with another finance institution, bank or any other person, shall notify the Regulatory Authority thirty days prior to the proposed agreement.

55. Display of balance sheet

- (1) A leasing company shall display a balance sheet and income statement in a conspicuous place on its business premises.

PART XI

General Provisions Preliminary

56. Compliance by existing leasing companies

- (1) Subject to sub-regulation (2) a finance company which is in existence on the commencement of those Regulations shall apply for an appropriate licence within thirty days from the commencement of these Regulations.
- (2) Except for the requirement on ownership and capital adequacy, an existing finance company shall comply with these Regulations within six months from commencement of these Regulations.
- (3) An existing finance company within any legal person that is not a registered leasing company shall be registered separately as a legal person in accordance with these

Regulations and shall pay such application fee as may be determined by the Regulatory Authority.

SCHEDULE

Form 1

THE NON-BANKING FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (LEASING COMPANIES) REGULATIONS, 2017
(Regulation 4)

APPLICATION TO BE LICENSED AS A LEASING COMPANY

Address of applicant:

Date 20.....

To:

The Chief Executive Officer

Non-Bank Financial Institutions Regulatory Office

Private Bag 00314

Gaborone

Botswana

I/We, the undersigned, do hereby apply for a license in terms of Regulation 4 of the Non-Bank Financial Institutions Regulatory Authority (Finance Companies) Regulations to operate a finance business in Botswana.

I/we have taken note of Regulation 4 of the Non-Bank Financial Institutions Regulatory Authority (Leasing Companies) regarding the consequences of giving false or misleading statements to the Regulatory Authority.

PART I - APPLICANT AND BUSINESS INFORMATION

1 Name of applicant

.....

2 Trading name(s) of applicant

.....

Provide all the names if different

.....

3 Legal status of applicant (mark with x)

.....

Private company

Public company

Other (specify)

I/we take note that Regulatory Authority will not allow Leasing Companies to conduct additional activities parallel to those that the Leasing Companies was licensed for without prior notice and approval by the Regulatory Authority.

4 Official registration number of the above legal status

.....

5 Date of commencement of trading as a Finance Company (dd/mm/yy)

.....

6 Financial year end (dd/mm/yy)

.....

7 Income tax registration number

.....
8 VAT registration number (if applicable)

.....
9 Contact details of the applicant (head office if applicable)

.....
Physical address

.....
Postal address

.....
Landline telephone number

.....
Fax number

.....
E-mail address

.....
Website

Note: Similar details to be provided if there are any branches with a different address. Provide on separate sheet of paper.

10 THE STATED CAPITAL OF THE LEASING COMPANY

(a) Stated capital

11 (a) SHAREHOLDERS OR SHAREHOLDING OF THE LEASING COMPANY

Name Number of Shares % of Total Shares

.....
.....
.....

(b) WHERE SOME SHAREHOLDERS MENTIONED IN 11 (a) ABOVE ARE NATURAL PERSONS STATE THEIR NAMES, NATIONALITY AND PLACE OF PERMANENT RESIDENCE:

Name Nationality Place of Permanent Residence

.....
.....
.....

(c) WHERE SOME SHAREHOLDERS MENTIONED IN 11 (b) ABOVE ARE UNNATURAL PERSONS/CORPORATE BODIES, STATE THEIR NAMES AND PLACE OF REGISTRATION/INCORPORATION AND REGISTRATION NUMBER

Name Place of Registration/Incorporation/Registration Number

.....
.....
.....

(d) STATE BELOW THE NAMES OF NATURAL PERSONS WHO ARE BENEFICIAL OWNERS OF SHARES IN THE UNNATURAL PERSONS/ CORPORATE BODIES MENTIONED IN 11 (c) ABOVE:

Corporate Body Shareholder % of Total Shares

.....
.....

.....

(e) BUSINESS/COMPANIES ASSOCIATED/AFFILIATED WITH DIRECTORS/MEMBERS OF THE GOVERNING BODY/BUSINESS/COMPANIES IN WHICH DIRECTORS/GOVERNING BODY MEMBERS HOLD A SUPERIOR POSITION IN BOTSWANA.

Director/Member's Name *Business Interests*

.....

.....

.....

12 IN THE CASE OF A FOREIGN-OWNED/CONTROLLED LEASING COMPANY

(That is, if more than 50% of voting shares are held by non-Botswana residents/ company registered outside Botswana and are part of the finance group).

(a) Certificate of the regulatory authority governing finance institutions of the country in which the head office of the finance company is domiciled, certifying that the finance company has been duly incorporated.

.....

(b) A certified copy of the resolution of the directors of finance company authorising the establishment of the subsidiary in Botswana.

.....

(c) State who is going to perform the consolidated supervision of the group and whether the said supervisor is aware of the applicant's plan to set up business in Botswana.

.....

(d) Organisation (organisation chart) showing how the applicant fits in the group.

.....

13 PART II- DETAILS OF THE CONTROLLERS/ PROPOSED SENIOR EXECUTIVES OF THE APPLICANT

Please attach curriculum vitae of each one of them

Name, Position, Nationality Academic/Professional Qualification

(Please attach curriculum vitae and certificates of each one of them

14 Contact details of principal officer

Title

Full name(s)

ID number:

Telephone number (office)

E-mail address

Note: The principal officer means the person responsible for the daily management of the principal office of the Leasing Company in Botswana. Provide short Curriculum Vitae to show experience.

15 NAME AND ADDRESS OF APPLICANT'S AUDITORS PROPOSED AUDITORS

(Where applicable)

Name of firm/person

Physical address

Postal address

Name of responsible person (if a firm)

Telephone number

Fax number

E-mail address

Professional registration number/practice number

Name of Professional body registered with

16 Banker

Name of bank

Branch name

Name of holder of main business account for finance business

Account number

I/we enclose an original letter from my/our bank confirming the above.

Note: If there is more than one such account due to branches for instance, provide full details.

PART III - SALIENT FINANCIAL INFORMATION

17 The following salient financial information is hereby provided:

Description At Most recent

Financial Year End

(Pula) At Date of Application

(Pula)

(a) Aggregate value of principal amounts still to be repaid

(b) Aggregate value of all future payments

(c) Less: provisions relating to (b) above (refer note 1)

Net value of loan/debtors book (b) - (c)

Number of contracts

Number of borrowers

Note 1: Provisions are those amounts that will with reasonable probability not be paid.

Note 2: A copy of your most recent set of financial statements, if applicable, must also be provide

PART IV - FUNDING

15. The existing and/or intended sources of funds to be utilised in the business are as follows:

Type of Funding Approximate Percentage

Own funds

Borrowed funds

Donor funds

Any other

Note: A leasing company is not allowed to solicit and/or accept funds (deposits) from the public. If members of the public wish to invest in a finance company, they do so by acquiring a stake in the business either through an equity contribution or the lending of funds.

PART V - DESCRIPTION OF BUSINESS

18 Applicant must provide a description of the business (existing and/or proposed business for next two years) describing the main product(s) including an indication of the total monthly cost of credit rate associated with each product, marketing methods, client focus, geographical spread of business and branches, number of persons to be employed, methods to ensure compliance with statutory responsibilities, administrative procedures and control. (Use separate piece of paper).

19 Describe briefly the system to be used to assess the credit worthiness of a borrower and policy regarding the refusal of an application for a credit facility.

20 Do you, as the entity doing finance business, engage in any other activity than the financing business hereby applied for? Yes No.....

If yes, please provide details

.....

21 Which of the following ancillary products does the applicant or its holding company or subsidiary or associate sell, or intends to sell, in conjunction with the credit facilities products applied herewith:

Short term insurance.....

Other (specify)

Explain the relative importance and volumes of these products in relation to the leasing business applied herewith
.....

Provide a schematic group structure and indicate whether the entity operates as a principal or intermediary for that specific product
.....
.....

PLEASE LODGE WITH THIS APPLICATION THE FOLLOWING DOCUMENTS
RELATING TO THE APPLICANT:

PART VI - DECLARATION OF NATURAL PERSONS

This part must be completed and signed by each natural person mentioned in Part II (make additional copies if necessary).

Declaration

I/We, the undersigned, declare that the above information is true and correct to the best of our knowledge and belief and undertake to provide any other information that may be required by the Regulatory Authority.

I /We, the undersigned, declare that none of us, except as indicated hereafter, are disqualified in terms of any of the disqualifications as mentioned in regulation

I/We, the undersigned, hereby give permission to the Botswana Police Criminal Record Center to furnish the Regulatory Authority or its authorised agents with my/our previous convictions or any relevant information in their possession, including any directions by the Court for my/our detention in a mental hospital or prison.

I/We hereby indemnify the Botswana police criminal center, its employees, the Regulatory Authority, its agents and its employees and hold them harmless against any claims by myself/ ourselves or any other person that may arise out of or be connected with such disclosure as well as any legal costs, including attorney and client costs.

First Name and Surname	ID Number	Signature	Date
.....

ATTACHMENTS

I/We enclose the following:

- 22 Non-refundable application fee of P_____
- 23 All additional information as to be provided in Application form above;
- 24 Constitution of the applicant or any document by which the applicant is constituted;

- 25 Certificate of Incorporation from Registrar of Companies;
- 26 Copy of a document showing income tax registration number;
- 27 A copy of any other registration or licensing certificate (if applicable);
- 28 *A copy of title deed or lease agreement for the premises where the applicant is going to carry out business ;*
- 29 business plan;
- 30 projected balance sheet and income statement with relevant assumptions for at
- 31 least 3 years; and
- 32 Copy of latest financial statements of the business (if already conducting finance business).

Yours faithfully

.....

Authorised signature

GENERAL NOTES:

- 1 Where an answer or documentation requested above is not known or available it is essential that this be brought to the attention of, and explained to, the Regulatory Authority. Any application not fully completed will be returned to the applicant.
- 2 Any controller and/or principal officer appointed after the approval of a license must within 30 days of such appointment complete and submit PART II and PART VI of this Form to the Regulatory Authority.
- 3 Prospective applicants are invited to hold informal discussions with the Regulatory Authority prior to formal application.
- 4 A prospective applicant need to establish as a company in Botswana, if applicable, before formal application.

Form 2

THE NON-BANKING FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (LEASING COMPANIES)
REGULATIONS, 2017

LICENCE TO CARRY ON A BUSINESS AS A LEASING COMPANY

(reg 4(1))

Serial No.

Licence Number:.....

This is to certify that has been duly licensed by Non-Bank Financial Institutions Regulatory Authority to carry out the business as a LEASING COMPANY, under the Non-Bank Financial Institutions Regulatory Authority Act and (Leasing Company)Regulations, 2017 and shall remain valid until it expires, is revoked or surrendered to the Regulatory Authority, subject to the provisions of the said Act or Regulations.

This licence is not transferable and remains the property of the Non-Bank Financial Institutions Regulatory Authority

Dated this day of 20..... in Gaborone.

Signed:.....

CHIEF EXECUTIVE OFFICER

Form 3

THE NON-BANKING FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (LEASING COMPANIES) REGULATIONS, 2017

APPLICATION TO OPEN A BRANCH OFFICE OF A LEASING COMPANY

(reg 4(3))

Address of applicant:
.....
.....

Date 20.....

To:

The Chief Executive Officer

Non-Bank Financial Institutions Regulatory Office

Private Bag 314

Gaborone

Botswana

I/We, the undersigned, do hereby apply for approval to open a branch of a Finance Company in Botswana, in terms of Regulation 4 of the Non-Bank Financial Institutions Regulatory Authority (Leasing Company) Regulations.

I/We have taken note of Regulation of the Non-Bank Financial Institutions Regulatory Authority (Leasing Company) Regulations regarding the consequences of giving false or misleading statements to the Regulatory Authority or falsely holding out as being licensed.

PART I - APPLICANTS INFORMATION

1 Name of applicant

2 Trading name of this branch of the applicant

3 License number allocated by the Regulatory Authority

4 Legal status of licensed Leasing Company

5 Will this branch engage in any other activity than that of the approved license?

If so, please provide details

6 Contact details of the applicant (Head Office)

Physical address

Postal address

Telephone number

Fax number

E-mail address

7 Contact details of the applicant (branch office)

Physical address

Postal address

Telephone number

Fax number

E-mail address

8 Contact details of responsible person at branch

Title

Name

Surname

Telephone number (office)

E-mail address

9 Products marketed or intended to be marketed in this branch:

Finance business products (yes /no)

Any other (yes/ no).....

10 Which of the following ancillary products does the applicant sell, or intends to sell, in conjunction with its finance business products from this branch, i.e. as an intermediary?

Short term insurance.....

Other (specify).....

Explain shortly the relative importance and volumes of these products in relation to the micro lending products
.....

PART II - RESPONSIBLE PERSON OF THE APPLICANT IN THE BRANCH

11 Any new person assuming general management, control and reporting responsibilities for the branch must complete PART II and PART VI of Form No. 1 of this Regulation.

Provide separately.

PART III - DESCRIPTION OF BUSINESS

12 Any changes to the original description of the business as approved should be noted.

I/We confirm that the information contained in this application is accurate and complete. Yours Faithfully:

Applicant: Principal Officer:

Date Date

Name Name

Capacity Signature

Signature

Note: If this application is completed on behalf of a juristic person, attach proof of authorisation.

ATTACHMENTS

I/We enclose the following:

- 1 Non-refundable application fee of P_____
- 2 All additional information as to be provided in the Application form above.

GENERAL NOTES:

Where an answer or documentation requested above is not known or available, it is essential that this be brought to the attention of, and explained to, the Regulatory Authority. Any application not fully completed will be returned to the applicant.

Contents of Disclosure Statement

(Regulation 30)

- 1 The name and address of the Leasing Company.
- 2 The name and address of the borrower
- 3 A description of any property to be used as security and its location, (if applicable).
- 4 A description of any guarantee or other collateral.
- 5 The date when the first payment on the loan is due.
- 6 In the case of any Mortgage, whether it is first, second, etc.
- 7 The principle of the loan, including:
 - (a) the total amount of all charges to be financed; and
 - (b) the net amount of money to be paid to the borrower or to be disbursed at the borrower's discretion.
- 8 The rate of interest expressed as a rate per annum, if that rate does not vary.
- 9 The initial rate of interest expressed as a rate per annum, if the rate varies from time to time
- 10 A description any factors that would cause the rate of interest to vary.
- 11 The length of the term of the loan.
- 12 The period during which an offer to a customer is valid before it expires.
- 13 A description of any factors that would cause the term of the loan to vary.
- 14 The total cost of borrowing over the term of the loan expressed as a rate varies from time to time
- 15 A list of each charge to be financed.
- 16 A description of any terms and conditions applicable to pre-payment of the principle
- 17 A description of any charge or penalty that would be imposed for failure to make any payment or to repay the loan when due.
- 18 The date of statement
- 19 The name and signature of the representative of a leasing company.

