

Terms and Conditions of Sale

1. Proof of Claims

A certificate signed by a manager or any director of THE COMPANY reflecting the amount owing by THE CUSTOMER to THE COMPANY, in respect of the credit facilities granted to THE CUSTOMER relating to THE CUSTOMER'S dealings with THE COMPANY, and of the fact that such amount is due, owing and unpaid shall be prima facie proof of the effects therein stated for the purpose of any action (whether by way of provisional sentence or otherwise), proof of debt on insolvency or for any purpose whatsoever where the amount of such claims is required to be established, and it shall rest with THE CUSTOMER to prove that such amount is not owing and/or due and unpaid.

2. Consent to jurisdiction

Notwithstanding the amount which may at any time be owing by THE CUSTOMER to THE COMPANY, the parties do hereby consent, in terms of Section 45 of the Magistrates Court Act (No 32 of 1944 as amended), to the Jurisdiction of the Magistrate's Court for the determination of any action or proceeding which may be brought by THE COMPANY against THE CUSTOMER arising out of any transaction between the parties, it being recorded that THE COMPANY shall be entitled, but not obliged, to bring any action or proceeding in the said court.

3. Defaulting in payment

In the event of THE CUSTOMER defaulting in making payment of any amount that has become due and owing, then the full balance outstanding (whether due or not) will immediately become due and payable without notice to THE CUSTOMER.

4. Change of address

THE CUSTOMER undertakes to notify THE COMPANY forthwith in writing of any change of address.

5. Objections to statement

If THE CUSTOMER should fail to object to any item appearing on THE COMPANY'S statement of account within fourteen days of date of the dispatch of the statements the accounts shall be deemed to be in order.

6. Change of ownership

THE CUSTOMER undertakes to notify THE COMPANY, in writing, within seven days of any change in Ownership of THE CUSTOMER'S business, or should THE CUSTOMER be a company, of its share transactions whereby the majority shareholding is affected, failing which notice the entire balance owing, whether due or not, will immediately be deemed to be due and payable by THE CUSTOMER. In addition to the foregoing, THE CUSTOMER acknowledges that immediately upon any change of Ownership in THE CUSTOMER any outstanding amount whether due or not shall be deemed to be forthwith payable by THE CUSTOMER to THE COMPANY.

7. Reservation of ownership

Until such time as THE CUSTOMER has paid the purchase price in full in respect of any purchase of goods, the ownership in and to all such goods shall remain vested in THE COMPANY. THE COMPANY shall, in its sole discretion, without notice to THE CUSTOMER, be entitled to take possession of any such goods which have not been paid for and in respect of which payment is overdue, in which event THE CUSTOMER shall be entitled to a credit in respect of the goods so returned being the price at which the goods are sold or the value thereof as determined by THE COMPANY. THE CUSTOMER hereby waives any right it may have for a spoliation order against THE COMPANY in the event that THE COMPANY takes possession of any goods.

8. Valid orders

In the event of any order being given to THE COMPANY on an order form reflecting THE CUSTOMER'S name as the entity from which the order emanates, such order shall be deemed to have emanated from THE CUSTOMER, notwithstanding the fact that such order may have been given or signed by a person not authorised by THE CUSTOMER and such order will be deemed to constitute valid delivery. It is further the sole responsibility of THE CUSTOMER to determine that goods ordered are suitable for the purposes of the intended use.

9. Non-waiver of rights

Any condonation of any breach of any of the provisions hereof or other act or relaxation, indulgence or grace on the part of THE COMPANY shall not in any way operate as or be deemed to be a waiver by THE COMPANY of any rights under this contract, or be construed as a novation thereof.

10. Payment to COMPANY

THE COMPANY does not appoint the Post Office as its agents for payments by post. All payments shall be made to THE COMPANY'S place of business from where the goods were ordered. In the event of any payments being mislaid or lost in the post, THE CUSTOMER shall still be liable to THE COMPANY for payment.

11. Credit terms

The credit terms are, unless amended in writing by a director/manager of THE COMPANY, **30 (thirty) days nett**, where such days are calculated from the date of statement. Settlement is effected only on receipt of cash or due honour of cheque or similar payment instrument. Any credit facilities granted to THE CUSTOMER by THE COMPANY is entirely at the discretion of THE COMPANY, and may be withdrawn at any time.

12. Interest on overdue accounts

The COMPANY shall be entitled to charge the CUSTOMER interest at the rate of 2% per month in terms of the National Credit Act, provided however, that nothing contained herein shall be interpreted as obliging THE COMPANY to afford THE CUSTOMER any such indulgence to effect payment after due date.

13. Consent to sharing information

THE CUSTOMER consents to THE COMPANY sharing information on his account with THE COMPANY, with other credit grantors and credit information agents. Information shared with such credit grantors and agents is used to make credit granting decisions, to prevent fraud and manage risk.

14. Delivery

14.1 THE CUSTOMER agrees that the signature of any agent, contractor, sub-contractor or employee of THE CUSTOMER on THE COMPANY'S official delivery note/invoice/waybill, or the delivery note of any authorised independent carrier will constitute delivery of the goods purchased.

14.2 Any delivery date stated on the order confirmation is approximate only. THE COMPANY shall not be bound by that date, but will make all reasonable efforts to deliver by that date.

14.3 Whilst THE COMPANY will endeavour to ensure that goods are delivered timeously, it shall not be responsible for any delays in the delivery of such goods, and THE CUSTOMER shall not be entitled to refuse acceptance of such late deliveries. THE COMPANY shall in any event not be liable to THE CUSTOMER, or to any third party, for any loss of whatsoever nature as a result of goods not being delivered timeously.

14.4 The risk in and to the goods shall pass from THE COMPANY to THE CUSTOMER on the date of delivery notwithstanding that ownership will not pass to THE CUSTOMER until full payment of the purchase price. Delivery shall be deemed to have taken place against signature of THE COMPANY'S delivery note, proof of posting if the goods are posted to THE CUSTOMER or delivery to the South African Transport Services or Road Carrier if the goods are railed or transported by THE COMPANY. The Post Office/South African Transport Services or Road Carrier shall act as the agent of THE CUSTOMER.

14.5 In the event of THE COMPANY acceding to any request by THE CUSTOMER to postpone delivery of the goods, or in the event of THE CUSTOMER failing to give THE COMPANY sufficient information to enable it to process any order, THE CUSTOMER will pay any costs and expenses thereby incurred by THE COMPANY.

14.6 THE CUSTOMER agrees that goods will be offloaded at the nearest accessible point on site. THE COMPANY shall not be held responsible for any damage to any goods delivered during the delivery process, arising from any cause whatsoever.

15. Recovery of legal /collection costs

Should THE COMPANY instruct its attorneys or collection agent to collect any overdue amounts, or to take any action against THE CUSTOMER in the implementation or protection of THE COMPANY'S rights, THE COMPANY shall be entitled to the recovery of all legal or collection costs arising there from, on the scale as between attorney, agent or collection agency and own client.

16. Responsibility for losses / damages or delays

THE COMPANY will not be in any way responsible for losses, damages or delays caused by or arising from a natural and unavoidable catastrophe or acts of the State's enemies, riots, lockouts, cessation of labour, transport delays, shortened hours of labour, accidents of any kind, insurrection, war, whether declared or not, the imposition of any trade boycotts or sanctions of trade restrictions by any government, authority, company or organisation or person or persons, whether within the Republic of South Africa or anywhere else, or any other cause or contingency whatsoever beyond the control of THE COMPANY, whether of the same kind (eiusdem generis) with the causes aforementioned or not.

17. Jurisdiction of magistrate's court – irrespective of value

THE CUSTOMER consents that at the option of THE COMPANY (who shall be entitled but not obliged hereunder) any proceedings against THE CUSTOMER may be brought by the Magistrate's Court, notwithstanding that the value of the claimable amount exceeds the jurisdiction of the Court.

18. Limitation of Liability

THE COMPANY shall not be liable to THE CUSTOMER for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the sale of goods and/or rendering of service.

19. Warranty

19.1 THE COMPANY warrants the FIRST purchaser of the Goods,

that the product/s shall be free of any defects in materials and/or workmanship for a period of 12 months (one year) from the verifiable date of purchase. Such verification shall include a valid proof of purchase by the FIRST purchaser. Upon receipt of the Goods the first purchaser is under obligation to check the product for any visible defects.

19.2 The warranty shall constitute the sole remedy available under law to the first purchaser for any damage related to, or resulting from, a defective product. The warranty is strictly limited to the repair or replacement of the parts of this product at the discretion of THE COMPANY

19.3 The Warranty does not cover:

19.3.1 Damage caused by unreasonable use and/or incorrect installation

19.3.2 Labour charges for the removal or re-installation of replaced Goods, or

19.3.3 Transport costs incurred in transporting the Goods to THE COMPANY; or

19.3.4 Consequential or incidental damage to property or person.

20. Severability of clauses

Each clause of these conditions of sale is severable, the one from the other and if any one or more clauses are found to be invalid or unenforceable, that clause/clauses shall not affect the balance of these conditions of sale, which shall remain of full force and effect.