

# CONDITIONS OF SALE AND DELIVERY

## 1. VALIDITY

The following conditions of sale and delivery apply for all quotations, deliveries and obligations to the purchaser and all further business transactions. No other conditions of sale and delivery or conditions of purchase will be valid enforceable of whatsoever nature except those referred to in this agreement.

## 2. QUOTATIONS AND PRICES

- 2.1 Quotations are given without obligation. Prices quoted are subject to goods being sold ex works/store excluding packing and Value Added Tax and are binding for the duration of the order. If taxes, raw material prices or freight charges etc. alter which could influence the price of delivery we reserve the right of adjustment to our final invoicing.
- 2.2 Orders supplied without prices being stated and agreed upon, will be invoiced according to prices valid at date of delivery.

## 3. ACCEPTANCE OF ORDERS

- 3.1 Orders and obligations are only considered by us as binding if they are confirmed in writing by the purchaser within 7 (SEVEN) days from the date of placing of order. Should no written confirmation be received the order will not be processed.
- 3.2 Cancellations of orders are only permitted with our written consent. In specific instances we are permitted to claim compensation.
- 3.3 It is however essential that all correspondence between the parties contain the order number.

## 4. COMPLETION OF ORDERS

- 4.1 Any uncertainty regarding technical specifications or quality regulations will be referred to the purchaser to clarify the matter if needs be, in our sole discretion. Any reply by the purchaser must be confirmed in writing. Notwithstanding the above, the usually accepted differences in measurements and weights are permitted. Furthermore it is acknowledged that we may over- or under deliver in respect of each order of not more than 10% of the original order. Any such over or under delivery will be regarded as an actual compliance to the terms of the original order.
- 4.2 Collection of goods in the purchaser's name is only permitted if a written authorisation has been given by the purchaser.

## 5. TIME OF DELIVERY

- 5.1 Times of delivery cannot be quoted precisely although we shall at all times make our best endeavours to deliver on the due date.
- 5.2 We are unable to ensure the consignment reaching the purchaser at the time agreed upon in case of vis major and for instance, disruption of traffic, goods, transport and raw material delays, strikes and lock-outs, a delay of energy supply and other stoppages hinderances which prevent a timeous delivery. In such circumstances we are permitted to defer the delivery for the duration of such disturbances by an additional initial period of time.
- 5.3 In circumstances where the purchaser has informed us without any delay that delivery cannot be made due to reasons mentioned above, the purchaser will not have the right of cancellation of the order and a claim for compensation cannot be made.
- 5.4 In case of delay by the purchaser, as set out in paragraph 5.3 above, the purchaser will pay storage costs to us equal to 1% of the value of the goods for every week stored. We shall however, in those circumstances, until such time as the purchaser can take delivery, have the reasonable businessman's duty of care of the goods stored at our premises.

## 6. PAYMENT

- 6.1 Payment of all amounts due will take place within 30 (THIRTY) days from the date of delivery.
- 6.2 An original tax invoice will be submitted to the purchaser as soon as possible containing *inter alia* the order number and date, delivery note number and date, and in our sole discretion a description of the goods.
- 6.3 Should the purchaser be in arrears with other payments, payment of the purchase price falls due immediately.
- 6.4 Should the purchaser become insolvent, or a compromise be applied or similar proceedings be pending out of Court, or a bill protested or claims etc. be investigated against the purchaser or the purchaser give cause for an insecure financial position, all amounts owing will become due and payable immediately.
- 6.5 We are not obliged to accept bills of exchange. Should we, however, accept bill of exchange then acceptance is due to fulfilling purposes only. Costs for bills of exchange are for account of the purchaser and are payable immediately.

## 7. DEFAULT OF PAYMENT AND ACCEPTANCE

- 7.1 Default of payment by the purchaser permits us, notwithstanding, any other rights in law, to charge interest on all amounts due at the current interest rate of the Reserve Bank of South Africa plus 2%. All other outstanding amounts will, in such event, fall due for payment immediately and we shall be permitted to reclaim the object of purchase from the purchaser. Such action by ourselves will not constitute a breach of the agreement.
- 7.2 Should the purchaser fail to take delivery, we are permitted to claim compensation of 20 percent of the purchase price from the purchaser irrespective of the possibility of a higher compensation becoming available.
- 7.3 The purchaser is not permitted under any circumstances to object or withhold payments on account of payments due to him. The setting off of payments against payments is not permissible.

## 8. TRANSPORT

Shipment of goods is solely made for the account of the purchaser and at the sole risk of the purchaser. This also applies to the goods delivered by ourselves free of charge. The choice of transport remains with ourselves in our sole discretion.

Transport insurance is only entered into at the special request of the purchaser and at the sole expense of the purchaser.

## 9. PACKING

Packing is based on actual costs. All containers must be returned to ourselves, free of charge within 14 (FOURTEEN) days from the date of delivery. The purchaser acknowledges that he is obligated to return the containers without any charge, normal wear and tear excluded.

## 10. RESERVATION OF OWNERSHIP

- 10.1 Until the total purchase price has been paid in full in respect of each order and all demands have been met (in the case of bills of exchange as long as obligations exist) the goods delivered remain our property until the balance has been paid.
- 10.2 Processing and manufacturing of the assets in terms of which ownership has been reserved is done by ourselves free of charge and without any obligation by us, we being considered manufacturers therefore the goods remain our property at any stage and time.
- 10.3 Should the manufacture include goods which are the property of the purchaser, we remain co-owner of the new product in proportion to the goods supplied by ourselves in terms of which ownership had been reserved.
- 10.4 For the goods manufactured the same conditions apply as for the goods in terms of which ownership has been reserved. The purchaser will only be permitted to sell the goods in the ordinary course of business and only if the proceeds of such resale is transferred to us. On request the purchaser must inform the third party to affect payment to ourselves.
- 10.5 Should the purchaser not be able to meet his obligations of the reserved ownership, we shall be entitled to reclaim possession of the object to sale from the purchaser. The purchaser should, at any time, allow us to inspect or our representative to inspect the goods in storage for which ownership has been reserved.

## 11. GUARANTEE AND WARRANTY

- 11.1 We guarantee all goods manufactured by ourselves for a guarantee period of 1 (ONE) year from the date of delivery subject to the provisions contained in paragraph 11.2 below. The purchaser should inspect the goods before manufacture and keep sufficient amount of samples.
- 11.2 We shall be informed by the purchaser of any defect immediately. Should the purchaser fail to inform us of claims of noteworthy faults within 14 days, then the resale of goods by the purchaser is permitted unconditionally.
- 11.3 Minor differences of the delivered goods from samples/quotations supplied, which influence the value or use of the goods only slightly, are not considered to be imperfections. In the case of allowable imperfections we shall be given the opportunity to rectify the defect or to supply a replacement within a reasonable period. Should this not be possible the purchaser may claim a refund of the purchase price provided that the goods in question have to be returned forthwith.
- 11.4 Improper treatment and storage exclude any claim for compensation.
- 11.5 Any other claims excluding those mentioned herein, of whatsoever nature, particularly claims of direct or indirect damage are excluded should the damage not be ascertainable due to lack of written feasible technical advice, proposals and consultations without charge. Such information, advice and discussion are supplied without any obligations or warranty.

## 12. PARTIAL LIFTING OF CONDITIONS

- 12.1 The purchaser cannot derive any right to infringe the conditions of delivery on account of our waiving any conditions of sale.
- 12.2 Should any parts of these sale and delivery conditions become invalid, the validity of the remaining conditions is not affected.

## 13. GENERAL

- 13.1 The place where the contract is to be fulfilled and the goods delivered, is the place of reception as quoted in the order.
- 13.2 The courts of jurisdiction for all possible disputes arising out of this contract are Pretoria. The contract is subject to South African Law.
- 13.3 No alteration, amendment or consensual cancellation of any of the terms of this agreement shall be valid unless reduced to writing and signed by or on behalf of the parties hereto.
- 13.4 We are hereby exempted from any possible legal rights which any third party may have to the goods delivered and the purchaser hereby agrees to hold us harmless against all or any claim from whatsoever nature which may be instituted against us by any third party

## 14. BREACH

- 14.1 Should after the entering into this agreement it appear that the purchaser is in breach of any one or more of the provisions of this agreement and fail to remedy such breach within 7 (SEVEN) days from receipt of a letter setting out the alleged breach and requesting him to restore such breach we shall have the right to:
- 14.1.1 Cancel this agreement forthwith and claim damages; or
- 14.1.2 Request specific performances of the terms of the agreement and claim damages.
- 14.2 Any letter forwarded in terms of clause 14.1 above, will be considered received and to have come to the attention of the purchaser on the 4<sup>th</sup> day from the date on which such letter was mailed by registered mail.