

**STANDARD TERMS AND CONDITIONS OF SALE APPLICABLE TO ALL CREDIT TRANSACTIONS WITH ELECTRAHERTZ (PTY) LTD**

1. **GENERAL**

- 1.1 If anywhere in the Agreement it refers to the singular, it also means the plural or the other way around, as the case may be. Similarly if the masculine is referred to it also means the feminine and neuter, or the other way around, as the case may be. Reference to natural persons includes artificial persons, or the other way around, as the case may be.
- 1.2 The address which you choose to accept service of all documents on yourself will be, for all purposes, your delivery address overleaf. The address which you choose to receive any letters or notices on yourself will be your delivery address or postal address or Telefax number. You shall therefore be deemed to have received any letter or notice on the 8<sup>th</sup> day after the date of posting or on the day the notice or letter was delivered or telefaxed to the abovementioned address.
- 1.3 Each phrase, sentence, paragraph and clause in the Agreement can be separated the one from the other irrespective of how they may be linked together and if a court orders any phrase, sentence, paragraph or clause to be defective or unenforceable, the remaining part of the Agreement shall still be of full force and effect.

2. **PAYMENT TERMS:**

- 2.1 You agree that, unless specifically otherwise agreed in writing, any amounts for which credit has been granted will be payable strictly within thirty days from date of the statement.
- 2.2 If any amount owing by you is not paid within sixty days from date of statement, you will be liable for interest at the rate of 2% above the prime overdraft lending rate of Standard Bank of South Africa, from time to time, per month, on the overdue amount, calculated from due date to date of payment and if the interest is not paid, it shall be added to the principal sum and the whole amount shall form the principal debt which will also bear interest as aforesaid.

3. **CERTIFICATE CERTIFYING AMOUNT DUE:**

A certificate signed by our managing director or any other person/s authorised by him, certifying the amount due by you will on the face of it be proof of the amount of your indebtedness. It shall not be necessary to prove the appointment of the person signing such certificate.

4. **PROOF OF DELIVERY:**

- 4.1 If you or any of your staff or representatives sign our delivery note, it shall be regarded as acceptance by you that the goods reflected in the delivery note have been properly and completely delivered.
- 4.2 In the event of any order being given to us on an order form reflecting your name as the person who submitted the order, the order shall be deemed to have been submitted by you, notwithstanding the fact that such order may have been submitted and signed by a person not authorised by you.

5. **DELIVERY DATES**

- 5.1 We will not be bound by any delivery dates furnished by our employees, unless the delivery date was furnished to you in writing.
- 5.2 You cannot hold us liable for any delays in manufacture or delivery as a result of the breakdown of machinery, strikes, civil unrest, labour disputes, accidents, any act of God or any other cause which is beyond our control.

6. **NO DELIVERY IN CASE OF BREACH, INSOLVENCY ETC.**

If you breach any of the conditions of this agreement, or fail to pay any amounts due to us, or if you become insolvent, or compromise with any of your creditors, or if you have made false statements in connection with this agreement or you allow any judgment that has been granted against you to remain unsatisfied for more than seven days, or if you are subject to a final or provisional order of Liquidation, or if you are an individual and your estate is provisionally sequestered, you agree that we may refuse to deliver goods or any part thereof to you, even if you have already ordered the goods.

7. **INSPECTION OF GOODS**

You are advised and undertake to, upon selection, properly inspect the goods prior to delivery thereof and to satisfy yourself with the condition of the goods and that they suite the purpose for which you purchased them.

8. **RISK AND WARRANTIES**

- 8.1 The risk in and to any goods purchased will pass to you once delivery has taken place, subject to 8.2.
- 8.2 Goods to be dispatched to you by rail or other carrier shall be at your risk from the time delivery is made by us to such carrier, whether or not the costs of transportation are paid by us.
- 8.3 Except for the implied warranties provided for in the Consumer Protection Act, No. 68 of 2008, we do not give any other warranty, whether express or implied, in regard to material, workmanship or fitness of goods for any particular purpose, unless in writing.
- 8.4 Claims for shortages or damages to supplied product must be notified in writing within 48 hours after delivery of goods, failing which no claim will be recognized.
- 8.5 The **COMPANY** will repair or at its discretion replace, at point of original delivery, any goods sold which are proved within the guarantee/warranty period of such goods, from date of delivery, not to conform to specifications or to be defective due to faulty workmanship or materials. Save as aforesaid, no warranty, guarantee or representation of any nature is given or implied by the **COMPANY** and any other warranty, guarantee or representation is expressly excluded. Under no circumstances shall the **COMPANY** or any of its employees be responsible for loss of the **PURCHASERS'** profit or any consequential or indirect or any damages of any nature whatsoever and from whatever cause arising.

9. **WE REMAIN OWNER OF GOODS UNTIL PAID**

Until such time as you have paid the full purchase price for any goods purchased, the ownership in such goods shall remain vested in us. We will, in our sole discretion, without notice to you, be entitled to take possession of any such goods which have not been paid for but in respect of which payment is overdue, in which event you will be entitled to a credit in respect of the goods so returned, subject to the goods being returned in original packaging, acceptable and non-damaged, being the price at which the goods were sold or the value thereof as determined by us.

10. **YOUR DUTY TO NOTIFY US OF CHANGE IN OWNERSHIP**

- 10.1 You hereby undertake to notify us in writing, within seven days, of any change in ownership of your business, or should you be a company, any share transaction in terms of which the majority shareholder is substituted, or should the purchaser be a Close Corporation, any transaction in terms of which the holder of the majority members interest is substituted, failing which notice the entire balance owing, whether due or not, will immediately become due and payable by you.
- 10.2 You agree that immediately upon any change of ownership of your business, any outstanding amount, whether due or not, shall forthwith become payable to us.

11. **TRANSFER OF OUR RIGHTS**

We may, without notice to you, transfer all or any portion of our rights in terms of this Agreement or our ownership of goods, delivered and not paid for, to any other person or persons.

You agree that, if we transfer our rights, that you will hold the goods and continue to fulfill your obligations to the new owners of the rights to the agreement and/or the goods.

12. **RETURNED GOODS**

Goods received may under no circumstances be returned for credit, unless incorrectly supplied by us and without prior arrangements having been made and is subject to a minimum 15% handling fee or other reasonable fee. All goods for which arrangements have been made which have been received into our store, are subject to inspection before any credits will be passed and must be returned in the original packaging and in the condition as it was supplied. No goods will be accepted back after 30days following date of invoice.

13. **WITHDRAWAL OF CREDIT FACILITIES:**

Credit facilities may be withdrawn by us at any time without prior notice to you and we reserve the right to review the conditions on which the credit facilities were granted to you.

14. **COLLECTION COSTS TO BE PAID BY YOU:**

Should we be obliged to instruct attorneys to collect any amount due from you, you agree to pay all costs and collection fees on an attorney and client scale.

15. **COURT JURISDICTION:**

You agree that the Magistrate's Court shall have jurisdiction over any proceedings resulting from this agreement or any sale of goods in terms hereof. We will however have the right to institute proceedings in the High Court if we so wish.

16. **IF A COMPANY, CLOSE CORPORATION OR TRUST  
YOU ARE LIABLE AS SURETY:**

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**PLEASE SIGN HERE**

Should you be a company, Close Corporation or trust then the person signing this agreement on your behalf binds himself / herself as surety and co-principal debtor in solidum with your company, Close Corporation or trust in respect of all the duties and obligations of the Company / Close Corporation / Trust in favour of us and you will not be entitled to rely on the legal exceptions normally available to sureties. You and the person signing this document are advised to acquaint yourself with the meaning of these legal exceptions by consulting your attorney.

17. **PRICES:**

17.1 We will not be bound to any quoted prices furnished by our employees, unless the pricing was furnished to you in writing.

17.2 All prices are quoted exclusive of Value Added Tax;

17.3 Our advertised pricing is subject to change without notice, E&OE (Errors and Omissions Excluded)

17.4 Prices are based on the cost to us of the material, labour, transport, customs, size and other duty landing charges if any, insurance as well as exchange rates as at date of sale of the goods. You agree that if there is any increase which effects such costs prior to delivery, the prices will be adjusted accordingly and without prior notice at our discretion.

18. **ENTIRE AGREEMENT:**

You and we both agree that this is the entire agreement, regardless of any representations that may have been made regarding the goods or the agreement and no variation, waiver, suspension, extension of time or agreement to cancel shall be of any force or effect unless contained in a written document and signed by both you and us.

19. **INDULGENCES BY US:**

If we grant you an extension of time in order to pay, or any other indulgence, this does not mean that we have given up any of our rights in terms of this agreement.