

Terms and Conditions

Terms & Conditions of Sale

1. ORDERS

Subject to any applicable law, in the event of any order being given to the Company on an order form reflecting the Purchaser's name as the entity from which the order emanates, such order shall be deemed to have emanated from the purchaser, despite the fact that such order may have been given or signed by a person not authorised by the Purchaser and such order will be deemed to constitute valid order.

2. DELIVERY OF GOODS

2.1 The company will make every reasonable endeavour to ensure timeous delivery of the goods on the terms and conditions agreed between the purchaser and the Company however the company shall not be liable for late deliveries due to circumstances which are beyond the company's control.

2.2 Signature by the Purchaser or by any representative of the Purchaser on the Company's delivery note shall be regarded as acceptance by the Purchaser that the goods reflected in such delivery note have been properly and completely delivered.

3. RISK IN AND TO THE GOODS

The risk in and to the goods shall pass from the Company to the Purchaser on the date of delivery to the Purchaser (or its nominee), despite the fact that ownership will not pass to the Purchaser until full payment of the purchase price to the Company.

4. OWNERSHIP OF GOODS

Until such time as the Purchaser has paid the purchase price in full in respect of any purchase of goods, the ownership of all such goods shall remain with the Company. Subject to any applicable law, the Company shall in its sole discretion and without notice to the Purchaser 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 Purchaser 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.



5. PRODUCT WARRANTY

5.1 Subject to any applicable law:

5.1.1 all goods purchased shall be regarded as having been sold as is without warranty against latent defects;

5.1.2 no liability shall arise on the part of the Company for any representation or warranty made or alleged to have been made in respect of goods sold by the Company to the Purchaser;

5.1.3 the Company's liability in respect of any claim based on defective goods shall be limited to repairing or replacing such defective goods, at the discretion of the Company, during any applicable warranty period, provided that such defective goods are returned to the Company in their original state and at the Purchaser's cost within the applicable warranty period. In circumstances where the goods are not manufactured by the Company, the Company's liability shall in no circumstances extend beyond any corresponding liability of the manufacturer or supplier of such goods to the Company.

5.2 The lifespan of goods sold by the Company, which is indicated on the Company's packaging from time to time, is an approximate estimate only and the warranty period relating to such goods shall be the applicable period for the purposes of any claim by the Purchaser.

6. FAILURE TO OBJECT TO ANY ITEM APPEARING ON THE COMPANY'S STATEMENT

If the Purchaser should fail to object to any items appearing on the Company's statement of account within 10 (ten) days of date of dispatch of the statement of account, the account shall be deemed to be in order and correct in all respects.

7. PAYMENTS

7.1 The terms of payment are strictly 30 days from the date of the statement of account unless otherwise agreed in writing by the Company.

7.2 In the event of the Purchaser defaulting on payment of any amount that has become due, owing and payable, the full balance outstanding (whether due or not) will immediately become due and payable to the Company without notice to the Purchaser.

7.3 The Company does not appoint the Post Office or any other body as its agent for payments by post or otherwise. All payments shall either be made to the Company's physical place of business from where the goods were ordered, or transferred directly to the Company's nominated bank account. In the event of any payments being mislaid or lost in the post or elsewhere, the Purchaser shall still be and remain liable to the Company for payment.



7.4 The Purchaser may not withhold or defer payment for any reason whatsoever, including but not limited to any claim, of whatever nature that the Purchaser may have against the Company.

8. PROPOSAL TO RETURN NON-DEFECTIVE GOODS TO THE COMPANY

8.1 In circumstances where the Purchaser wishes to return non-defective goods to the Company for credit, the Company may, in its sole and absolute discretion (subject to applicable law), agree to the return of such goods subject to the goods being new, unused, in their original packaging and in a saleable condition. The Purchaser shall be obliged to furnish adequate written proof of having purchased the goods from the Company.

8.2 Subject to applicable law, the Company shall be entitled to a minimum 10% handling fee for any goods which are returned for credit.

8.3 Notwithstanding the prevailing price of the goods at the time that they are returned to the Company, the price reflected on the Purchaser's proof of purchase shall be the price credited by the Company to the Purchaser for the return of the goods, less the handling fee.

9. INDEMNITIES

9.1 Subject to any applicable law, the Purchaser acknowledges that it will indemnify and hold the Company harmless against any liability in respect of the goods, including under the Occupational Health and Safety Act 85 of 1993 and the Mine Health and Safety Act 29 of 1996. Subject to any applicable law, specific reference to sections 10 and 21 of the respective legislation as it applies to product liability is disclaimed by the Company.

9.2 The Purchaser shall be obliged to and warrants that it will ensure that a qualified technician and/or electrician installs all goods purchased from the Company which require installation by such qualified persons. Should the Purchaser fail to comply with such obligation, the Purchaser indemnifies the Company from any liability arising from the purchase of the goods.

9.3 The Purchaser acknowledges that it does not rely in any manner on any representations and/or advice of the Company in its decision to purchase particular goods from the Company.

10. COSTS

All costs incurred in any action against the Purchaser, including costs on an attorney and own client scale and attorney's collection commissions, will be paid by the Purchaser should the Company be successful in such action or proceeding. The Purchaser will reimburse the Company for all costs incurred in recovering any amount owing by the Purchaser to the Company, including but not limited to its legal costs incurred in proceeding against the Purchaser, howsoever those costs are incurred and whether they are incurred prior to the institution of action, after the entry of judgment or at any other time.



11. PROOF OF AMOUNT DUE, OWING AND UNPAID TO THE COMPANY

A certificate signed by the company secretary, any manager or any director of the Company reflecting the amount owing by the Purchaser to the Company in relation to the Purchaser's dealings with the Company and the fact that such amount is due, owing and unpaid shall be prima facie (on the face of it) proof of such facts for the purpose of any action (whether by way of Provisional Sentence or otherwise), proof of debt on insolvency or for any purpose where the amount of such claim is required to be established and it shall rest entirely with the Purchaser to prove that such amount is not owing, due and/or unpaid.

12. CHANGE OF OWNERSHIP

The purchaser is to notify the Company, in writing, within 7 (seven) days of any change of ownership of the Purchaser. The Purchaser acknowledges that immediately upon any change of ownership of the Purchaser any outstanding amount, whether due or not, shall be deemed to be immediately payable by the Purchaser to the Company.

13. WINDING UP OF PURCHASER

Should the Purchaser at any time be wound up, whether provisionally or finally, (which liquidation or sequestration, whether provisional or not, shall be deemed to be a material breach by the Purchaser) or should steps be taken to place the Purchaser in business rescue or in the event of the Purchaser being an individual or partnership and having his/its estate sequestrated, whether provisionally or finally, any goods delivered by the Company to the Purchaser and in respect of which payment has not been made at the date of the winding up or sequestration (whether payment in respect thereof be due or not) shall immediately be returned to and recoverable by the Company, wherever such goods may be found.

14. CESSION OF COMPANY'S RIGHTS AND DELEGATION OF COMPANY'S OBLIGATIONS

The Company shall at any time be entitled to cede all or any of its rights against the Purchaser to any third party without notice to the Purchaser.

15. ENTIRE AGREEMENT

15.1 These terms and conditions are in addition to and not in substitution for any signed trading terms and conditions entered into between the Purchaser and the Company.

15.2 The Purchaser acknowledges that no terms at variance with these terms which have been sought to be introduced by the Purchaser at any time shall be of any force or effect unless the Company has, in writing, expressly and unambiguously agreed that the terms so sought to be introduced by the Purchaser shall apply. Without limiting this, the Company shall not be regarded as having so expressly agreed to such terms by virtue of the Company



having agreed to execute an order in which inconsistent terms have been introduced by the Purchaser and despite the fact that the Company has not rejected such inconsistent terms.

16. NON-WAIVER

Any condonation of any breach of any of these terms and conditions or other act or relaxation, indulgence or grace on the part of the Company shall not operate as or be deemed to be a waiver by the Company of any of its rights or be construed as a novation of the agreement between the Purchaser and the Company.

17. SEVERABILITY

These terms and conditions, despite the manner in which they have been grouped together or linked grammatically, are severable from each other. Any term or condition which is or becomes unenforceable in any jurisdiction in which it applies or in which its enforcement is sought, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it is so unenforceable, be treated as pro non scripto (as if it had not been written) and the remaining terms and conditions shall remain of full force and effect.