

## STANDARD TERMS AND CONDITIONS : SALES

### 1. INTRODUCTION

- 1.1 The "Supplier" referred to is Safripol Proprietary Limited, including all subsidiaries or divisions or any other company/entity which becomes a subsidiary of the Supplier. This is an agreement for the supply of goods by the Supplier to the Customer.
- 1.2 Once the Application has been approved by the Supplier, the Application and the terms and conditions set out below, including all notices and quotations sent to the Customer and all Annexures attached hereto ("the Agreement"), shall apply to the sale of any goods by the Supplier to the Customer.
- 1.3 The Customer acknowledges and agrees that the Supplier will only be able to commence with the delivery of any goods under this Agreement, once the Supplier has approved the Customer's Application, and any further conditions imposed by law or by the Supplier have been complied with. This Agreement is only valid and the parties are only obliged to comply with it if it is reduced to writing and signed by or on behalf of both the parties.
- 1.4 In addition to the declarations and warranties set out in section 5 of the Application and section 11 of this Agreement, the Customer warrants and declares that the Customer has been given an adequate opportunity to read and understand the terms and conditions of this Agreement and is aware of all the terms hereof, particularly those printed in bold which, among others, may limit the liability of the Supplier, or constitute an assumption of risk or liability by the Customer, or impose an obligation on the customer to indemnify the Supplier or any other person for any cause, or be an acknowledgement of any fact by the Customer.
- 1.5 In this Agreement, reference to one gender includes all the genders; the singular form of a word includes the plural and the plural form of a word includes the singular; and a reference to a law or regulation is a reference to that law or regulation on the date the parties entered into this Agreement.

### 2. AGREEMENT FOR THE SUPPLY OF GOODS

- 2.1 **The parties agree that-**
  - 2.1.1 **this Agreement is applicable to all existing and future debts between the Supplier and the Customer;**
  - 2.1.2 **any conflicting terms or conditions stipulated by the Customer are expressly excluded;**
  - 2.1.3 **no representations were made by the Supplier in regard to its goods or in regard to any of the qualities of such goods leading up to this Agreement other than those contained in this Agreement;**
- 2.2 **The Customer has the responsibility to ensure that the goods on any tax invoice issued by the Supplier duly represent the goods ordered by the Customer at the prices agreed to by the Customer. The Customer will be given an opportunity to inspect goods when delivered to determine whether these conform in all respects to the quality and quantity ordered.**
- 2.3 **Notwithstanding clause 17.6 of this Annexure A, all orders or agreed variations to orders for goods, whether made orally or in writing, shall be binding and subject to these standard terms and conditions of the Agreement and may not be revoked by the Customer.**

### 3. PAYMENTS

- 3.1 **Unless otherwise agreed, the Customer must pay the Supplier in accordance with the payment terms confirmed by the Supplier as contemplated in 3.9.2 of the Application ("due date").**
- 3.2 Payments may be made by way of electronic funds transfer ("EFT") or any other means approved by the Supplier in writing.
- 3.3 Payments shall be deemed to have been made when reflected in the Supplier's bank account.

#### Registered address:

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Directors: JN van Niekerk (CEO), WC Els (CFO), GN Chaplin, SP Lunga, FH Olivier  
Company Secretary: KAP Secretarial Services (Pty) Ltd

- 3.4 **The Supplier shall be entitled to levy interest on all overdue amounts (i.e. amounts not paid on the due date as contemplated in 3.1 of this Annexure A) at a rate of 2,0% per month, or such other maximum rate that may be prescribed from time to time in terms of the NCA, should it apply, alternatively, prime plus 2% per annum in the event that the NCA does not apply. Interest shall be reckoned from the day upon which such amount becomes overdue until the date of payment thereof in full, both days inclusive, and shall be calculated on a compounded basis on the amount owing at the end of each month; and shall be payable on demand.**
- 3.5 The Supplier will credit each payment made under this Agreement to the Customer on the date of receipt of the payment as follows: firstly, to satisfy any due or unpaid interest charges (if any), secondly, to satisfy any due or unpaid fees or charges (if any) and thirdly, to reduce the amount of the principal debt. The Supplier shall be entitled to apply set-off in the event that the NCA does not apply.
- 3.6 Should the Supplier at any time inform the Customer of any change to the Supplier's banking details, the Customer shall **confirm such change with the sales representative and the Financial Director** of the Supplier in writing before effecting any further payments to the Supplier.
- 3.7 **Notwithstanding clause 3.6, in the event of the Customer erroneously making payment into an incorrect banking account, the Customer shall remain liable to the Supplier for the payment of such goods.**

#### 4. **PRICE OF GOODS AND PRICE VARIATIONS**

The price of goods shall be as set out in the Supplier's official price list which is available upon request, or as agreed in writing from time to time between the Supplier and Customer, or as set out in the invoice provided to the Customer.

#### 5. **ACCEPTANCE OF ELECTRONIC INVOICES**

The Customer agrees to receive all statements, invoices and supporting documentation electronically subject to the Seller meeting all the requirements of the Value Added Tax Act 89 of 1991 ("VAT Act") and that all the mandatory information as set out in sections 20(4), 21(3)(a) and 21(3)(b) of the VAT Act respectively must appear on these documents.

#### 6. **VAT & DISCOUNTS**

- 6.1 The price of goods is strictly net (i.e. exclusive of value-added tax ("VAT") levied in terms of the VAT Act and not subject to any deduction). These prices are not subject to any discounts, unless otherwise agreed in writing between the parties. The Customer shall be liable for all VAT payable in respect of goods purchased by the Customer.
- 6.2 If any discount is agreed to in writing, payment must be received on the due date as defined in clause 3.1 above of this Annexure A and shall only apply to the actual price of the goods (i.e. excluding VAT, transport costs, insurance, necessary disbursements and similar charges).

#### 7. **DELIVERY**

- 7.1 Goods will be delivered by the Supplier to the address chosen by the Customer for purposes of delivery. If no such address has been specified, then the agreed place of delivery is the Supplier's place of business.
- 7.2 Goods to be delivered remain at the Supplier's risk until such goods have been delivered to the Customer in terms of 7.1
- 7.3 The Customer may request the Supplier to engage an alternative or particular carrier to transport the goods for the Customer the cost of which shall be borne by the Customer. The Customer hereby authorises the Supplier to engage such a carrier on such terms and conditions as it deems fit. If a carrier has been engaged to transport the goods as contemplated in 7.3, the goods will be deemed to have been duly delivered to the Customer when the goods are delivered to the carrier. **The Supplier shall not be liable for any loss suffered by the Customer as a result of the transportation of the goods by the carrier engaged by the Supplier at the request of the Customer.**
- 7.4 The Supplier will do all that it reasonably can to meet the stipulated dates and times for delivery of goods. **The Supplier shall not be responsible for failure to deliver, or for delays in delivery, due to circumstances beyond the Supplier's control, including but not limited to adverse weather conditions, unpredictable delays caused by traffic congestion, accidents, diversions or road works, the unavailability of raw materials, strikes, power outages, industrial disputes, national disasters and regulatory interference ("force majeure events"). The Supplier shall not be liable to the Customer for any loss or damages arising from any failure or delay in or providing goods resulting from force majeure events.** The Supplier will use reasonable endeavours to continue to perform in terms of this Agreement as soon as performance becomes possible. The Supplier may contact the Customer to agree on alternative dates for delivery but will not require the Customer to accept delivery at an unreasonable time. For the avoidance of doubt, no delay in delivery or

- performance shall entitle the Customer to cancel or suspend the Agreement or to withhold any payment due to the Supplier under the Agreement, nor entitle the Customer to compensation for any delay.
- 7.5 If the Supplier is unable to provide the goods ordered, the Supplier will inform the Customer immediately and refund any payment made within 30 (thirty) days of this notice.

## 8. OWNERSHIP OF GOODS

- 8.1 Notwithstanding the delivery of any goods supplied or delivered by the Supplier to the Customer, the Customer shall not become the owner thereof until the Supplier has received payment of the full purchase price and/or any other costs and interest (if applicable) payable in respect thereof ("Purchase Price") under this Agreement.
- 8.2 The Customer undertakes that it will not, without the Supplier's express prior written consent, dispossess itself of or otherwise pledge, or permit any third party to establish any lien, hypothec or other proprietary or security interest in or over, the goods delivered to it before the customer has settled the full Purchase Price payable in respect of such goods;
- 8.3 As from the date of delivery of the goods (and notwithstanding 8.1) all risks of damage to or destruction or loss of the goods shall pass to the Customer. The Customer shall be responsible, from the date of delivery, for arranging (at its own cost) appropriate insurance cover in respect of all risks of damage to or destruction of the goods or any loss of the goods. Pending payment of the full Purchase Price the Customer must note the Supplier's interest as owner of the goods on the insurance policy and the Customer must at all times ensure that the goods are identified as the Supplier's goods and that they should not be commingled with other goods or made subject to a claim by any third party.

## 9. TRANSFERRING RIGHTS OR OBLIGATIONS

- 9.1 The Customer may not transfer any of the Customer's rights or obligations under this Agreement to any third party without the Supplier's prior written consent.
- 9.2 The Supplier may transfer all or some of the Supplier's rights and obligations under this Agreement to any third party without the Customer's consent, provided that the transfer is not to the Customer's detriment.

## 10. THE CUSTOMER'S RIGHT TO TERMINATE

- 10.1 This clause 10 applies to the extent that the NCA applies to the Agreement.
- 10.2 The Customer may cancel or terminate this Agreement at any time by paying an amount ("settlement amount") equal to the aggregate of –
- 10.2.1 the unpaid balance of the outstanding amount on the Customer's Account(s) as at that date ("settlement date"); and
- 10.2.2 all unpaid interest and all other fees and charges due or payable by the Customer in terms of this Agreement up to and including the settlement date.
- 10.3 The Customer may demand to be furnished with a statement specifying the settlement amount, in which event the Supplier will be obliged to provide such statement, in writing, within 5 (five) business days of the Customer's request.
- 10.4 The statement referred to in clause 10.3 above will only be binding for the date stated and will not include any transactions effected or processed on or after this date and for which the Customer will also be liable.

## 11. DECLARATIONS AND WARRANTIES BY THE CUSTOMER

- 11.1 **In addition to the declarations and warranties set out in section 5 of the Application, the Customer warrants and declares that:**
- 11.1.1 **the Customer has the necessary legal capacity and has full power and authorisation to enter into this Agreement and to effect and carry out its obligations in terms of this Agreement and, if the Customer is a corporate entity, association, partnership or a trust, that all necessary corporate and/or other actions were taken to authorise conclusion and implementation of this Agreement and the Customer will provide the Supplier with the originals or certified copies of all documents confirming such authorisation;**
- 11.1.2 **if the Customer is married in community of property, the consent of the Customer's spouse, to the extent required by applicable laws, have been obtained;**
- 11.1.3 **the Customer has fully and truthfully answered all and any requests for information addressed to it by or on behalf of the Supplier and provided to the Supplier in connection with the conclusion of this Agreement. The Customer is not aware of any material facts or circumstances not disclosed to the Supplier which, if disclosed, may adversely affect the decision of the Supplier to enter into this Agreement;**
- 11.1.4 **no default event specified below in clause 14 has occurred or is occurring;**

- 11.1.5 **the Supplier did not make an offer to the Customer which would automatically have resulted in an agreement if the Customer had not declined the offer;**  
11.1.6 **the Supplier has not induced, harassed or forced the Customer to enter into this Agreement; and**  
11.1.7 **the Customer will immediately notify the Supplier in writing of any material change concerning the Customer or its business, including change of ownership of the Customer's business and/or change in shareholding or membership, if the Customer is a company or close corporation, or any change concerning the customer's legal status or capacity.**

## 12. ADDRESSES FOR NOTICES

- 12.1 The Customer hereby chooses as the Customer's *domicilium citandi et executandi* ("domicile address") for all purposes the physical address as set out in 1.6 of the Application. The Customer authorises the Supplier to deliver notices, statements or invoices by hand, e-mail, facsimile or registered post to the addresses provided in Section 1 of the Application.
- 12.2 For purposes of this Agreement all notices shall be in writing. Any notice given by either party to the other (the addressee) which is delivered by hand shall be presumed to have been received at the time of delivery, if transmitted by fax, shall be presumed to have been received one hour after the time of successful transmission, if sent by e-mail, shall be presumed to have been received at the time and on the date of successful transmission or if sent by pre-paid registered post, shall be presumed to have been received 7 days after the date of posting. A notice actually received by a party shall constitute an adequate and effective notice to it notwithstanding that it was not delivered to its domicile address.
- 12.3 The parties may at any time by written notice to each other, vary their domicile addresses to any physical address within the Republic of South Africa.

## 13. THE CUSTOMER'S RIGHTS TO RETURN GOODS

- 13.1 If the Consumer Protection Act 68 of 2008 ("CPA") applies to the Agreement because the Customer is either a natural person or a juristic person (i.e. a company, close corporation, association, partnership or trust) and the asset value or annual turnover of the juristic person does not exceed the threshold set in terms of the CPA, the terms and conditions of this clause 13 will apply to the Agreement with the Customer.
- 13.2 The Customer has the right to rescind any transaction or agreement resulting from direct marketing without reason or penalty by written notice to the Supplier within 5 (five) business days after the later of the date on which the Agreement was concluded or the goods were delivered to the Customer. If the Customer chooses to terminate the Agreement, the Customer must comply with 10 above, if applicable.
- 13.3 When the goods are delivered to the Customer, the Customer may request a reasonable opportunity to examine those goods for the purpose of ascertaining whether the Customer is satisfied that the goods -
- 13.3.1 are in accordance with the type and quality ordered by the Customer;
  - 13.3.2 the goods correspond in all material respects and characteristics with samples and/or description;
  - 13.3.3 in the case of a special order, reasonably conform to the material specifications of the special order; or
  - 13.3.4 are suitable for the purpose for which they have been bought.
- 13.4 If the Customer returns the goods for any lawful reason other than a product failure or defect, the Customer must do so within 10 (ten) business days after the goods have been delivered to the Customer, together with proof of payment. Subject to applicable law, the Supplier retains the right to charge the Customer a reasonable amount for use of the goods during the time they were in the Customer's possession, for any consumption or depletion of the goods and for necessary restoration costs to render the goods fit for re-stocking. The Customer will not be entitled to return the goods and receive a refund if –
- 13.4.1 for reasons of public health or otherwise, a public regulation prohibits the return of those goods; or
  - 13.4.2 after having been supplied to the Customer, the goods have been partially or entirely disassembled, physically altered, permanently installed, affixed, attached, joined or added to, blended or combined with, or embedded within, other goods or property.
- 13.5 If the Customer returns the goods due to a product failure or defect, the Customer should do so within 6 (six) months after the goods have been delivered to the Customer, provided that the Customer is able to provide proof of payment. The Supplier will, at the Customer's direction repair or replace the goods, or refund the amount paid for the goods. The Customer will not be able to return the goods if the product failure or defect is attributable to non-compliance by the Customer with the instructions provided by the Supplier.
- 13.6 **If the CPA does not apply to the Agreement, and the Customer wishes to return the goods, the Customer must report its claim to the Supplier within 48 hours of receipt of the goods unless otherwise agreed with the Supplier. The Supplier will consent to the return of the goods only if the claim made by the Customer represents a valid and lawful claim, which shall be determined by the Supplier in its sole discretion. In such event, the Supplier will arrange for the return of the goods at the expense of the Customer.**
- 13.7 **The Customer will not be credited for any returns not agreed to between the parties, and unless the Supplier acted with gross negligence or fraudulent intent, the Supplier will not be liable for**

any losses or damages suffered, or costs incurred by the Customer as a result of such return.

#### 14. DEFAULT, IMPLICATIONS OF DEFAULT AND PROCESS TO BE FOLLOWED

14.1 **If the Customer is in default, the full amount owing by the Customer in terms of this Agreement will immediately become due and payable notwithstanding the fact that a portion of such amount may not yet be due in accordance with the agreed terms of payment.**

14.2 The Customer will be in default of this Agreement if –

14.2.1 the Customer does not pay any amount which is payable to the Supplier under this Agreement on the due date as contemplated in 3.1 of this Annexure A;

14.2.2 the Customer breaches any of the terms and conditions of this Agreement or any agreement in terms of which the Customer provided security to the Supplier, and the Customer fails to remedy the breach within seven (7) days of receiving written notice to do so;

14.2.3 any representation or warranty made by the Customer in connection with this Agreement or any other documents supplied by the Customer is materially incorrect or false;

14.2.4 any person who furnished security to the Supplier in respect of this Agreement (e.g. as surety, guarantor or pledgor), commits any breach of its obligations to the Supplier in terms of such security agreement;

14.2.5 the Customer or any person who furnished security in respect of this Agreement -

14.2.5.1 being an individual publishes notice of the voluntary surrender of his estate or dies or is placed under administration or commits an act of insolvency as defined in the Insolvency Act 24 of 1936 or has any application or other proceedings brought against or in respect of him in terms of which he is sought to be sequestered or placed under curatorship, in any event whether provisionally or finally and whether voluntarily or compulsory; or

14.2.5.2 not being an individual –

14.2.5.2.1 is wound up, liquidated, dissolved or deregistered, in any event whether provisionally or finally and whether voluntarily or compulsory, or passes a resolution providing for any such event;

14.2.5.2.2 is deemed to be unable to pay its debts;

14.2.5.2.3 resolves that it voluntarily begin business rescue proceedings or has any business rescue proceedings commenced against it, as contemplated in section 132(1) of the Companies Act 71 of 2008;

14.2.5.2.4 has a judgment of a competent court against the Customer or any person who has furnished security for the Customer for the attachment of assets or for payment of any amount is not satisfied for more than seven (7) days after the date on which it is issued; or

14.2.5.2.5 compromises or attempts to compromise with the Customer's creditors generally or defer payment of debts owing by the Customer to the Customer's creditors.

14.3 If the Customer is in default and this Agreement is subject to the NCA, the Supplier may -

14.3.1 give the Customer written notice of such default and may propose that the Customer refer this Agreement to the National Credit Regulator for debt intervention, a debt counsellor, alternative dispute resolution agent, consumer court or ombud with jurisdiction, with the intent that the parties resolve any dispute under this Agreement or develop and agree on a plan to bring repayments up to date;

14.3.2 commence legal proceedings to enforce this Agreement including exercising its rights in terms of any of the securities and recover collection costs and default administration charges as defined in the NCA if -

14.3.2.1 it has given the Customer notice as referred to in clause 14.3.1 above or it has given notice to terminate any debt review process under section 86 of the NCA which may then be underway in respect of this Agreement; and

14.3.2.2 the Customer is and has been in default under this Agreement for at least 20 (twenty) business days; and

14.3.2.3 at least 10 (ten) business days have elapsed since the Supplier delivered the notice contemplated in clause 14.3.2.1; and

14.3.2.4 in the case of a notice in terms of clause 14.3.1, the Customer has not responded to that notice; or responded to the notice by rejecting the Supplier's proposal.

14.4 If the Customer is in default of this Agreement and this Agreement is not subject to the NCA the Supplier may exercise its rights, as may be permissible in law and without prejudice to any of the Supplier's other rights, which include any one or more of the following -

14.4.1 suspending the delivery and provision of goods;

14.4.2 demanding immediate payment of all outstanding amounts under the Account;

14.4.3 terminating of this Agreement and claiming and recovering such damages as the Supplier may have suffered; and

14.4.4 enforcing any security furnished in respect of the Agreement.

14.5 **In the event that the Customer is in default of this Agreement and as may be permissible in law, the Supplier may, without prejudice to its other rights be entitled forthwith to enter the Customer's premises and repossess the goods.**

14.6 **The Customer will be liable for all legal costs, as may be permissible in law, incurred by the Supplier in recovering any amount that the Customer owes to the Supplier. If the NCA and CPA**

**do not apply to this Agreement, the Customer shall be liable for costs on the attorney and own client scale.**

- 14.7 A certificate signed by a manager, director, CFO or CEO of the Supplier, specifying the amount owing by the Customer and further stating that such amount is due, owing and payable by the Customer, shall be sufficient (*prima facie*) proof of the amount thereof and of the fact that such amount is so due, owing and payable for the purpose of obtaining provisional sentence or any other judgment against the Customer in any competent court. It shall not be necessary to prove the appointment of the person signing any such certificate.

#### 15. **CONFIDENTIALITY**

The parties agree that the Agreement is confidential and proprietary information of the parties communicated to each other in connection with this Agreement will be received in strict confidence and be used only for the purposes of the Agreement. Each party will use the same means as it uses to protect its own confidential information, but in no event less than confidentiality of such information. The recipient party, its agents, representatives or employees will not disclose such information without the prior written consent of the other party.

#### 16. **LIMITATION OF LIABILITY**

**To the extent permissible in law:**

- 16.1 **neither party shall, in any circumstances, be liable to the other party for any indirect or consequential loss or damages, including without limitation, loss of business or profit.**
- 16.2 **the Customer hereby agrees to indemnify the Supplier against all claims of whatsoever nature which may be made against the Supplier by any third party arising out of the use of the goods sold by the Supplier to the Customer , unless such claims arise out of gross negligence or fraudulent actions of the Supplier.**

#### 17. **GENERAL**

- 17.1 This Agreement is in all respects governed by the laws of the Republic of South Africa.
- 17.2 To the extent permissible in law, the Customer, in terms of section 45 of the Magistrates' Courts Act 32 of 1944, consents to the jurisdiction of any Magistrates' Court in the area in which the Customer resides or works or has its principal place of business, notwithstanding the amount involved. This does not prevent the Supplier from bringing legal proceedings in a High Court that has jurisdiction.
- 17.3 No indulgence, latitude or extension of time which the Supplier may allow the Customer, shall be regarded to be a waiver of rights by the Supplier or a novation of the Customer's liabilities under this Agreement.
- 17.4 If any term or condition of this Agreement becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition in this Agreement.
- 17.5 The terms and conditions of this Agreement may not be amended, changed or cancelled unless it is reduced to writing and signed by both parties.
- 17.6 This Agreement represents the entire Agreement between the Customer and the Supplier and no alterations or additions to this Agreement or cancellation hereof may be effected unless agreed to by both parties, reduced to writing and signed by duly authorised representatives of the Customer and the Supplier.
- 17.7 No consent or approval in terms of or in connection with this Agreement shall be valid or effective unless in writing and signed by or on behalf of the party giving such consent or approval.
- 17.8 For the purposes of this Agreement no data message, as defined in the Electronic Communications and Transactions Act No 25 of 2002 ("ECTA"), other than an e-mail or facsimile, shall constitute writing and no electronic signature or advanced electronic signature, as defined in ECTA, shall constitute a signature, except for the purposes of varying any date referred to in this Agreement or giving any consent or approval in terms of this Agreement.
- 17.9 Without prejudice to any other provision of this Agreement, any successor in title, including any executor, heir, liquidator, business rescue practitioner, curator or trustee, of either party shall be bound by this Agreement; and
- 17.10 The signature by either party of a counterpart of this Agreement shall be as effective as if that party has signed the same document as the other party.

(1 July 2020)