

STANDARD CONDITIONS OF SALE

These are the terms and conditions of sale which apply to all goods and services sold by the seller to the purchaser. These terms and conditions shall take precedence over any terms and conditions which may be contained in the purchaser's order or other documentation and may only be altered with the express written agreement of the seller.

1. DEFINITIONS

- 1.1. "purchaser" : means the purchaser reflected on the credit application
- 1.2. "goods" : means the goods that have been ordered by the purchaser and includes services where such are also rendered;
- 1.3. "the order" : means the written and verbal orders received from the purchaser to which these terms and conditions apply;
- 1.4. "seller" : means HANSA-FLEX SA (Pty) Ltd, Registration number: 2001/010703/07
- 1.5. "these terms and conditions" : means these terms and conditions of sale, the contents of the purchaser's orders and any written acceptance of the purchaser's orders by the seller.

2. GENERAL

- 2.1. All goods supplied by the seller shall be supplied subject to these terms and conditions only. These terms and conditions shall take precedence over any terms and conditions which may be contained in the purchaser's order, or other purchaser documentation, and may only be altered with the express prior written agreement of the seller.
- 2.2. Any conflicting statements or special terms contained in any acceptance order or other documentation issued by the purchaser shall not be effective, unless such conflicting statement or special terms have been expressly agreed to in writing by the seller.

3. ORDERS

- 3.1. The seller will accept written and verbal/telephone orders. In the event of a verbal order, the Seller will not be responsible for any errors or misunderstandings occasioned by the purchaser's failure to place a written order.
- 3.2. If orders are placed with the seller telephonically by the purchaser, such orders have to be confirmed in writing by the purchaser, prior to acceptance of same by the Seller.
- 3.3. The Seller will not be responsible for any misunderstandings or errors occasioned by the purchaser's failure to record the order in writing or to accurately record the order in writing.
- 3.4. Orders placed by the purchaser shall constitute irrevocable offers to purchase the goods in question at the usual prices of the Seller as at the date when the purchaser places the order of the goods, subject to above clauses, and shall be capable of acceptance by the Seller by the delivery of the goods, written acceptance or confirmation of the order.
- 3.5. If an order is placed with the Seller for goods that are not in stock ("Special Order Goods") (local or international) and orders for large quantities of Goods will require the purchaser to pay a 30% (thirty per cent) deposit of the estimated order value to the Seller. In the event that purchaser cancels the order for Special Order Goods or the order for large quantities at any time after acceptance thereof by the Seller, the Seller shall be entitled to charge the purchaser reasonable penalty fee in accordance with the Consumer Protection Act. The penalty fee payable will be equivalent to the 30% (thirty per cent) deposit paid.

4. PRICES

- 4.1. The prices payable by the purchaser to the seller for the goods shall be the ruling prices communicated verbally and where required by a purchaser, a written quotation, valid for a period of 5 (five) working days will be provided. All prices communicated and quoted are exclusive of Value Added Tax.
- 4.2. Should the seller agree to deliver the goods to the purchaser, then in addition to the purchase price payable for the goods, the purchaser shall pay to the seller all costs of delivery of the goods to the address stipulated in the purchaser's order, including, without limiting the generality of the foregoing, the cost of insurance.

5. TERMS OF PAYMENT

- 5.1. Unless otherwise agreed in writing by the seller, the purchase price for the goods together with the costs of delivery of the goods, if applicable, shall be paid by the purchaser to the seller into a bank account to be nominated by the seller to the purchaser in writing from time to time. Payment of the purchase price for the goods shall be made within 30 (thirty) days from the date of the Seller's statement. Save as aforesaid, all payments will be made without set-off or deduction, and free of exchange. The terms of payment set out above, shall apply equally to price variation claims.
- 5.2. The Seller will make exception to clause 5.1. in respect of payments that may be short paid for invoices in dispute or under query. The balance of payment due should be settled in terms. Once invoices under dispute have been resolved, the amounts due thereafter should be settled immediately.
- 5.3. Where the Purchaser requires a Customer Order number or other pertinent information on the Tax Invoice to be issued by the Seller, the number must be issued by the Purchaser on placement of the order or within 2 (two) working days of delivery of the goods by the seller. The Purchaser shall not be entitled to withhold any payment because of the Purchaser's failure to comply with the aforesaid provisions.

- 5.4. The seller shall be entitled, but not obliged, to charge interest at two percentage points above the ruling prime overdraft rate quoted by Nedcor Bank Limited in respect of any period during which payments are overdue.

6. DELIVERY

- 6.1. The goods may be delivered by rail, road or air as the seller may in its discretion decide. If the goods are delivered by rail or air, then delivery shall be deemed to have been given to the purchaser when such goods are handed to the railways or airways authorities as the case may be. If the goods are delivered by road, then delivery shall be deemed to have been effected when the goods are off loaded at the purchaser's premises, provided that when the carrier has been nominated by the purchaser, delivery shall be deemed to have taken place at the time that the goods are handed to the nominated carrier. All risk in and to the goods shall pass to the purchaser upon delivery. The purchaser shall be obliged to accept the delivery of the goods at the date specified or requested by the purchaser in writing in the order of the purchaser referred to in clause and which has been accepted by the seller in terms of clause.
- 6.2. Should the purchaser fail to accept delivery on such date, the risk of loss or damage to the goods together with all and any expenses pursuant thereto, including but not limited to insurance, storage and further delivery charges shall be borne by the purchaser and paid to the seller by the purchaser on request. When delivery of the goods is spread over a period, each separate delivery thereof shall be invoiced when dispatched. Each statement shall be treated as a separate account and payable in terms of clause. Where there is a shortage in any goods delivered to the purchaser or where the goods so delivered are delivered in a damaged condition, the purchaser shall give written notice to the seller of such shortage or damage within 5 (five) days of delivery to the purchaser's premises.
- 6.3. Should the purchaser fail to give such notice, the purchaser shall have no claim in respect of any alleged shortages or damage and the goods shall be deemed to have been delivered in a complete and undamaged state.
- 6.4. The seller shall endeavour to deliver the goods at the earliest possible time but in no instance can the seller accept liability for any loss or damage arising from the late delivery of the goods and time shall not be of the essence of the contract. No liability shall attach to the seller as a result of the failure to deliver if such failure is due to circumstances beyond the seller's control.
- 6.5. It is recorded that delivery dates shall be regarded as indicative only and whereas the seller will do everything possible to keep to such dates, the seller cannot be held responsible for any failure to do so. Notwithstanding anything to the contrary in these terms and conditions, but always subject to the provisions of clauses the seller's liability in respect of any failure by it to deliver the goods, or to deliver the goods timely, shall be limited to an amount equal to the amount of the purchase price of such goods and, in any event, the seller shall not be liable for any consequential loss, loss of profit, special damages or any indirect loss of the purchaser.

6.6. The Purchaser signature to the TAX Invoice/Proof of delivery upon receipt of goods verifies that products are received in good order and correct quantities supplied.

7. RETURN OF GOODS

The goods will not be accepted for return without the prior written consent of the seller first being had and obtained, and should such consent be given the goods must be returned carriage paid to the seller undamaged in the original factory sealed packing. Provided that the goods are returned within 6 (six) months of delivery and inspection by the seller reveals that the goods are in a saleable condition, which decisions shall rest solely with the seller, a credit equal to the original invoice price will be passed. Credit required for goods more than 6 months after invoice will not be accepted without consent of the seller first being had and obtained. The seller may elect to pass credit at the original invoice price less 15% (fifteen percent) to cover the cost of examination, handling and repacking or agree to buyback at an agreed unit price. In the event of the seller making an incorrect delivery, then and in such event the goods shall be returned without the prior written consent of the seller being first had and obtained and such returns shall be for the account of the seller and shall be properly marked with the order number. Should the goods be returned to the seller by the purchaser without the prior written consent having been given, the seller shall be entitled to store the goods at the purchaser's sole risk and a reasonable charge for such storage shall be made.

8. VARIATIONS

The seller shall not be obliged to accept or act upon any changes, modifications or additions to original purchaser instructions if such changes, modifications or alterations were given subsequent to the seller's acceptance of the purchaser's order. No variations of these terms and conditions or additions hereto shall be of any force or effect unless reduced to writing and signed by both the seller and the purchaser

9. LIABILITY

- 9.1. The seller shall not be liable to the purchaser for any damages including, but not limited to, special, indirect, consequential loss and/or damages or loss of profits arising from the performance or non-performance, delict, breach of warranty, negligence or otherwise by the seller of its obligations in terms of these terms and conditions. This exclusion of liability shall relate to claims for breach of contract as well as for alleged negligence on the part of the seller.
- 9.2. The purchaser further indemnifies the seller against any claims that may be made against the seller by any third party for any damages including, but not limited to, consequential loss or loss of profits arising from the performance or non-performance by the seller of its obligations in terms of these terms and conditions or in connection with the use of the goods, whether such claims are in respect of damage to property, consequential loss, personal injury or death.

9.3. The purchaser agrees that the seller shall not incur any liability under the Occupational Health & Safety Act No. 85 of 1993 (specifically Section 10 of that Act).

9.4. The seller shall not be liable for any damage to or subsequent malfunctioning of goods as a result of work done on the goods or services rendered in connection with such goods by any unauthorised third party.

10. WARRANTY

10.1. The purchaser's claims against the seller for breach of warranty are restricted to the terms set forth in any warranty furnished to the purchaser with the goods sold. The said warranty is given in lieu of any liability at common-law, and any other warranties or representations concerning the goods sold, whether express or implied by law, are excluded.

10.2. Any warranty given by the seller from time to time shall not apply if the purchaser fails to use the goods in the manner recommended by the seller or if the goods are used for any purpose other than that for which they are intended, or if the goods are modified or repaired by an unauthorised person, or are damaged by the purchaser in any way.

11. BENEFIT, RISK AND OWNERSHIP

Notwithstanding delivery of the goods to the purchaser, the seller shall retain ownership of the goods until whole of the purchase price, together with interest charged in terms of clause above (if any) shall have been paid in full. All other benefits and risks in and to the goods shall pass to the purchaser upon delivery having been affected.

12. BREACH

In the event of the purchaser committing any breach of these terms and conditions including, but not limited to, the failure to make payment of the purchase price as agreed, the seller shall be entitled forthwith to claim repossession of the goods, for which purpose the purchaser hereby irrevocably authorises the seller, through its duly authorised representative/s, to enter upon the premises where the goods are kept, to take repossession of the goods. The exercise of this right shall not preclude the seller from its right to claim damages from the purchaser occasioned by its breach. The seller shall, in the alternative, be entitled to enforce the provisions of these terms and conditions and claim payment of the full amount due by the purchaser, any instalments of the price falling due in the future to become due and payable immediately.

In such event the seller shall at its discretion, be entitled to charge interest on overdue amounts as provided in clause 5 above or as provided for at the relevant time in terms of the Prescribed Rate of Interest Act 55 of 1975. Should the seller take legal action against the purchaser in the event of the purchaser's breach, the purchaser shall be liable for all legal fees incurred by the seller in the recovery of any amounts owing, including costs on the attorney and own client scale, collection commission and tracing costs. If the purchaser breaches these terms and conditions and the seller elects not to cancel the agreement of sale, the seller shall be entitled to suspend performance of any of its obligations until the purchaser has complied with its obligations. Any relaxation, leniency or indulgence which the seller may extend to the purchaser shall not in any way constitute a waiver of seller's rights in terms hereof.

14. ARBITRATION

Any dispute arising from or in connection with this agreement shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator appointed by the Foundation.

15. HEADINGS

The headings to the clauses in these conditions are for reference purposes only and shall not affect their interpretation.

16. SUSPENSION OR CANCELLATION OF DELIVERY

16.1. The seller reserves the right to suspend, delay or cancel the delivery of some or all of the goods or to require advance payment for them if: The purchaser is insolvent or is unable to pay its debts, or seeks to effect any compromise with any of its creditors or compound any of its debts; or The purchaser is placed under an order of sequestration, judicial management or liquidation, whether such order be provisional or final; or The purchaser is the subject of any resolution passed to enable it to be wound-up or dissolved; or Any judgement is given against it in any court of law and, if appealable, is not appealed against

within the period allowed for the lodging of such an appeal or, if not subject to an appeal, remains unsatisfied for a period of 10 (ten) days; or The purchaser is in breach of any of its obligations to the seller.

16.2. Any suspension, delay or cancellation as a result of any of the foregoing events shall not affect any other right which the seller may have against the purchaser based on these terms and conditions of sale or otherwise.

20. GOVERNING LAW

These terms and conditions shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

21. CONSENT TO JURISDICTION

For the purpose of any legal proceedings the purchaser hereby consents to the jurisdiction of any Magistrate's Court having jurisdiction over the parties. This notwithstanding it shall not preclude

17. INABILITY TO SUPPLY OR DELIVER

If the seller cannot deliver, cannot deliver timeously, some or all of the goods for any reason beyond its control, including but not limited to lack of instruction from the purchaser, stock shortage, industrial dispute or break-down, production delays, government action, state of war, riot, or civil disturbance, natural disasters or act of God, the seller may, in its discretion, cancel the whole or any part of the agreement of sale forthwith. In the event of such cancellation the seller shall not be liable for any loss whatsoever (including any consequential loss of profits, special damages or any indirect loss) thereby caused.

18. INSTALLATION

18.1. In case installation of the goods is agreed upon, the following provisions shall apply and the seller's price shall be based on the fulfilment of the following provisions by or at the expense of the purchaser.

18.2. The provision of adequate and lockable storage on or near the installation site for the goods to be supplied in such a way that the goods are protected against theft and any damage or deterioration; any item lost or damaged during the storage period shall be repaired or replaced at the purchaser's cost.

18.3. The timely execution and completion of the preparatory works at purchaser's sole expense and risk, in conformity with the requirements, which the seller shall indicate to the purchaser in due time; the site preparation shall be in compliance with all safety, electrical and building codes relevant to the equipment and its installation. Sufficiency of such plans and specifications, specifically including, but not limited to the accuracy of the dimensions described therein, shall be the sole responsibility of the purchaser. The installation site shall be made available to the seller without obstacles in due time to enable the seller to start the installation work at the scheduled date; the seller's installation personnel shall not be called upon to do the installation of the goods until all preparatory works have been satisfactorily completed.

18.4. The availability of the goods to be delivered in due time and in proper condition at the installation site. The timely provision free of charge of the permits, licenses, rights of way and other necessary permits of the pertinent authorities required for or in connection with the installation and putting into operation of the goods to be delivered.

18.5. The timely provision of all visa, entry, exit, residence, work or any other permits necessary for the seller's personnel and for the import and export of tools, equipment and material necessary for the installation works and subsequent testing of the goods.

18.6. The availability free of charge on or near the installation site of adequate and lockable rooms for the seller's personnel (equipped with sanitary installations) and for the storage of the tools and instruments of the seller's personnel.

18.7. In case any or all of the above provisions are not properly or not timely complied with, or the seller has to interrupt the seller's installation works and subsequent testing for reasons not attributable to the seller, the period of completion shall be extended accordingly and any and all additional costs resulting from such extension shall be for the purchaser's account. The seller neither assumes liability nor offers any warranty for the fitness or adequacy of the premises or the utilities available at the premises in which the goods are to be installed, used or stored.

19. ACCEPTANCE OF GOODS

19.1. In case installation of the goods is offered, the seller shall notify the purchaser when the goods installed will be ready for testing and acceptance, inviting the purchaser to attend the seller's standard tests or such tests as may have been agreed upon in the order to demonstrate compliance with the agreed specifications and/or to inspect the installation work.

19.2. If the purchaser's representative fails to attend the testing on the date notified, the seller's technical staff will commence with the tests according to the seller's standard test procedures and these tests shall be considered performed in the presence of the purchaser's inspector and acceptance shall in such case take place on the basis of the results stated in the test certificate signed by the seller.

19.3. Should the purchaser wish to reject the goods installed on reasonable grounds, the purchaser shall submit to the seller its reasons in detail and in writing within 3 days after completion of the acceptance tests concerned. The seller shall as a sole remedy correct the installation complained of as soon as possible and the relevant parts of the acceptance test shall be repeated within a reasonable period of time in conformity with the procedures outlined above. If within 3 days after completion of the acceptance test the seller shall not have received the acceptance certificate signed by the purchaser or a report of rejection based on good reasons, the goods installed shall then be considered as having been accepted by the purchaser.

19.4. Any partial non-fulfilment of the seller's obligations solely attributable to the seller entitles the purchaser to withhold payment only to a corresponding, reasonable amount. The taking into operational use of any of the goods installed shall also constitute acceptance of the goods concerned. Minor defects or deviations not affecting the operational use of the goods installed shall be stated in the acceptance certificate, but shall not entitle the purchaser to obstruct or suspend acceptance of the goods or the installation. The seller undertakes to remedy such defects as soon as possible but subject to the provisions of this clause.

22. ACCEPTANCE OF ORDERS

22.1. Acceptance by the seller of the purchaser's orders shall only be binding if in writing and signed by the seller. All purchaser's orders are to be accompanied by such instructions from the purchaser as, in the sole discretion of the seller, are necessary to enable the seller to supply the goods and/or render the services set out in the purchaser's order. Should instructions not be timely furnished, or be deficient in any respect, then the seller shall be entitled to increase the price set out in the purchaser's order by such amount as may be necessary to cover the increase in costs occasioned by the delay in furnishing of the instructions.

22.2. The seller reserves the right to employ sub-contractors in respect of a portion or all of the services to be rendered or goods to be supplied to the purchaser. Once acceptance of a purchaser's order has been delivered to the purchaser, a binding contract on the items, subject to the conditions contained herein, will have been entered into by and between the seller and the purchaser, which contract shall not without the consent of the seller be capable of variation and/or cancellation. Should the seller agree to cancel the contract in whole or in part, then the purchaser shall upon date of cancellation pay to the seller in cash, free of bank exchange or any deduction or set-off at Johannesburg, as and by way of a payment in lieu of damages, a cancellation fee equal to an aggregate of 15% of the contract price plus any ancillary charges whatsoever nature, incurred by the seller as a result of such cancellation. Should the cancellation involve the return of goods already delivered, the provisions of clause shall apply mutatis mutandis. A certificate by a director of the seller shall, ipso facto, be proof of the amount of ancillary charges incurred and shall be sufficient to discharge the burden of proof for the purposes of pleading, and no further evidence relating thereto need to be adduced at any trial at which a document is rendered as evidence. No counter offer in respect of any of the terms of the quotation shall be accepted and any acceptance of a quotation attached to or delivered with a counter offer shall, in itself, be determined to form part of such counter offer and shall accordingly not be valid or binding upon the seller.

23. CONSENT

The purchaser specifically consents that the supplier:- may carry out a credit enquiry in respect of the purchaser; may access a Credit Bureau's data base before granting any credit to the purchaser; may, where credit is granted, transmit details to a Credit Bureau of how the purchaser has performed in meeting with its obligations under the account, and share such information with other Credit Bureaus for the purposes of assessing further applications for credit by the purchaser (and its members, directors, or partners as the case may be) and for occasional debt tracing, debt collection and fraud prevention purposes; if credit is granted in favour of the purchaser and the purchaser fails to meet its financial commitments to the supplier, the supplier may record the purchaser's default with a Credit Bureau; may refer information relating to the purchaser's credit performance to a Credit Bureau for banking and credit assessment, statistical analysis, and credit scoring purposes and use such information to identify products (including those supplied by third parties) which may be relevant to the purchaser; may record the existence of a purchaser's account with the supplier at a Credit Bureau(s).

24. PERMITS AND LICENSES

The purchaser acknowledges that the goods and/or documentation supplied by the seller may be subject to export regulations and the purchaser acknowledges that it is familiar or agrees to become familiar with such regulations. The purchaser furthermore agrees that it will not deal with the goods and/or documentation in violation of such regulations, more specifically will not re-export or otherwise dispose of such goods and/or documentation without the applicable, prior written authorization of United States or other national authorities or the seller respectively. The purchaser shall at its own expense obtain all necessary consents, permits, licenses or other authorities from the owner of the premises, Government, Municipal, Local or other competent authorities and others whose permission is or may be necessary for the installation or use of the system. The seller does not warrant or represent that any such consent, permits, licenses or other authorities will be granted and failure to obtain one or other of the same shall not invalidate any order accepted by the seller. In the event that an end-user statement and/or import license is required, the purchaser shall provide the seller with such document upon receiving the seller's written request.

25. ADDITIONAL TERMS APPLICABLE TO EXPORT SALES PRICE

25.1. All prices quoted:

25.1.1. shall be exclusive of any other taxation, duty or import that may be imposed by any statutory or quasi-statutory body from time to time; are expressed in Euro currency and based on the rate of exchange applicable and ruling on the date of quotation and any variation on the quoted rate shall be for the purchaser's account;

25.1.2. are based on the full quantities specified being accepted by the purchaser and any variation at the instance of the purchaser in the quantity orders shall, in the discretion of the seller, invalidate the price quoted;

25.1.3. are exclusive of delivery charges. Any charges for export shall be separately quoted in terms of these terms and conditions and shall include transport, insurance and forwarding costs.

25.1.4. any variation in the exchange rate after date of quotation, or in Value Added Tax and/or any other tax payable from time to time and/or the cost to the seller of any matter relating to delivery, installation, insurance, freight, clearance of goods from customs and/or authorities, cable reticulation and/or any other matter whatsoever upon which the price quoted has been based shall, insofar as any such variation affects the cost to the seller of complying with the quotation, result in the price as set out therein being varied in proportion to any such variation and shall be for the account of the purchaser. A certificate from the seller's auditors setting out the extent of the variation in respect of any of the aforesaid matters, shall be absolute and conclusive proof thereof and accordingly the seller shall not be obliged to lead any other evidence relating to such variation at any trial at which such variation is placed in dispute. All quotations are valid for 60 (sixty) days from date hereof, where after they shall lapse and be ipso facto null and void unless the seller has agreed to an extended period of validity in writing.