



MAUGENE ENGINEERING SERVICES

CREDIT APPLICATION, STANDARD TERMS AND CONDITIONS

In Account with:

(hereinafter referred to as "the Company")

Section A: (To be completed by ALL Applicants)

PLEASE MARK WITH (X)THE RELEVANT LEGAL EN7ITV UNDER WHICH YOU WILL OPERATE THE ACCOUNT

- Registered Company (Also complete Section B. ATTACH A COPY OF THE LATEST FORM CM49) (DIRECTORS)
- Close Corporation (Also complete Section B. ATTACH A COPY OF THE FOUNDING STATEMENT AND AMENDED FOUNDING STATEMENTS)
- Sole Proprietor (Also complete Section C.)
- Partnership (Also complete Section C. ATTACH A COPY OF THE PARTNERSHIP AGREEMENT)

Full Legal Name

Trading Name (if different)

VAT Ref No. Date Established Type of Business

Postal Address Postal Code

Physical Address (Where goods are kept)

Physical Address Tel No. Fax No.

Postal Code Are premises rented or owned by the Customer?

Landlord Details

Name

Contact Person

Postal Address Postal Code

Physical Address

Physical Address Tel No. Fax No.

Postal Code Copy of lease or invoice from Landlord.

How long have you been in your present premises?

Physical address & domicile chosen in terms of 13 of the terms and conditions of sale

Banking Details

Account No. Branch No.

Account Holder Name

Account Type: Current Savings / Transmission Year Account was open Previous Bank (less than 3 years)

Estimated monthly purchases Amount of credit requested

Trade References

Name Address

Term Contact Number. Ave Monthly Purchases

Name Address

Term Contact Number. Ave Monthly Purchases

Name Address

Term Contact Number. Ave Monthly Purchases

Name Address

Term Contact Number. Ave Monthly Purchases

Section B: (Registered Company or Close Corporation)

Registered office address

Postal Code

Reg. No. Date of incorporator

If a subsidiary company, please slate name of Holding Company

Auditors / Accountants

Name

Physical Address

Postal Code Tel No.

Date of latest audited financial statements (Note you can considerably speed up your application by attaching a copy of your latest audited financial statement)

Directors

Name Address

Nationality Contact No. ID No.

Name Address

Nationality Contact No. ID No.

Name Address

Nationality Contact No. ID No.

Section C: (Partnership or Sole Proprietor)

Date and commencement of business Nationality if not SA (Please attach copy of ID) Are you presently insolvent? Yes No

Proprietor/Partners

Name Address

Contact No. ID No.

Name Address

Contact No. ID No.

Name Address

Contact No. ID No.

Details of fixed property owned by the Sole Proprietor / Partner/s

Address

Stand no. & Township

Estimated Value Bond Value

Bond Holder Property Registered Name

Address

Stand no. & Township

Estimated Value Bond Value

Bond Holder Property Registered Name

Address

Stand no. & Township

Estimated Value Bond Value

Bond Holder Property Registered Name

Declaration

By my/our signature hereto /we hereby acknowledge, warrant and agree that -
 (a) The information given by me/us herein is true and correct in all respects;
 (b) I/we have read and understand the terms and conditions of sale;
 (c) I am authorized to sign this application / agreement

Full Name of signatory

Capacity of signatory

SIGNED BY THE CUSTOMER AT

ON THE

Signature

TERMS & CONDITIONS OF SALE

1. INTERPRETATION

In these terms and conditions, unless inconsistent with the text –

- 1.1 words importing the singular shall include the plural and vice versa, words importing the masculine gender shall include the other gender/s and vice versa, and natural persons shall include jurists persons and vice versa;
- 1.2 headings are for reference only and shall not be used in interpreting the meaning of the text;
- 1.3 a reference to a party includes that party's successors in title and permitted assignees and assigns:
and
- 1.4 "goods" means all and any products ordered by the Customer from the Company and/or sold by the Company to the Customer.

2. APPLICATION

- 2.1 All goods sold and/or services rendered by the Company to the Customer from time to time shall be sold and/or rendered, as the case may be on the terms and subject to the conditions set out herein.
- 2.2 The Company shall have the right at any time and in its sole and absolute discretion, to withdraw or vary the nature and/or extent of the credit facilities afforded to the Customer in terms of this agreement

3. ORDERS

- 3.1 Orders for goods shall be made to the Company in writing and shall include a Customer order number.
- 3.2 Notwithstanding clause 3.1 the Company shall be entitled (but not obliged) to accept verbal orders and/or orders placed without an order number: Provided that in such event the Company shall not be responsible for any errors in or arising from such orders.
- 3.3 Orders, whether written or verbal, shall constitute irrevocable offers by the Customer to purchase the goods so ordered, which offers shall be capable of acceptance by the Company by the delivery of the goods and/or by written acceptance or confirmation of the order.
- 3.4 The Company shall be entitled (but not obliged) to accept return or any goods on such terms and subject to such conditions as it may in its sole discretion determine.

4. PRICES

The price payable by the Customer for the goods shall be the price quoted and invoiced to the customer. Alternatively the prevailing prices from time to time. Provided that the Company shall have the right to change its prices at any time and from time to time.

5. PAYMENT AND INTEREST

- 5.1 The Customer shall pay for the goods within 30 (thirty) days of the date of Invoice.
- 5.2 All payments shall be made by the Customer -
 - 5.2.1 to the Company's main place of business or at such other address as may be selected or advised by the Company in writing from time to time;
 - 5.2.2 without any deduction or set-off of whatsoever nature or for whatsoever cause, and free of any and all exchange, bank or other like charges.
- 5.3 Should the Customer fail to make any payment on due date all amounts payable by the Customer to the Company shall immediately become due by the Customer to the Company, notwithstanding the date of Invoice or the date of order or purchase or delivery of the goods.
- 5.4 The Company may at any time and in its discretion, appropriate or re-appropriate any monies received from the Customer towards any indebtedness of the Customer to the Company, and the Customer expressly waives its right to name the debt or account to which any payment made by it shall be applied.

5.5 Nothing herein or in the future conduct of the Company shall be construed as constituting the post office or any other postal or courier service as an agent of the Company, and the risk of loss of payment arising through the use of the post office or such postal or courier service shall remain with the Customer at all times.

5.6 Acceptance by the Company of any negotiable instrument shall not be deemed a novation or a waiver by the Company of any of its rights hereunder. The Customer hereby waives its rights to insist on notice of dishonour or protest being given in the event of any of its cheques being dishonoured.

6. DELIVERY

- 6.1 The goods shall be delivered by the Company to the Customer, and delivery of the goods shall be deemed to have been made by the Company to the Customer –
 - 6.1.1 where the Company transports the goods, when the goods are offloaded at the Customer's premises or at such other address as may have been nominated by the Customer: and
 - 6.1.2 where the Customer collects the goods when possession of the goods is given to the Customer or the Customer's nominated carrier or agent or other recipient.
- 6.2 Signature of a Company delivery note/invoice by any employee of the Customer or of the Customer's nominated carrier or agent, as the case may be, shall be prima facie proof of delivery to the Customer of the goods reflected in such delivery note/invoice.
- 6.3 The Customer hereby waives its right to dispute or query the delivery of any goods reflected in a Company delivery note/invoice which has been signed as contemplated in clause 6.2. unless such dispute or query is indicated in writing on the delivery note/invoice at the time of signature.
- 6.4 The Company does not guarantee or warrant delivery of any goods, and the Company shall not be liable for any loss or damage including, without limitation, any loss of trade or profit, arising from or consequent upon the non-delivery or delayed delivery of any goods to the Customer for whatsoever reason or cause.
- 6.5 Should the Company make delivery of part only of any order then the Customer shall not be entitled to cancel the order in respect of those goods delivered or the balance of the order, and shall be obliged to accept such delivery of and pay for the goods so delivered.

7. OWNERSHIP, RISK & INSURANCE

- 7.1 Ownership of the goods shall remain vested in the Company until paid for in full.
- 7.2 Risk in and to the goods shall pass to the Customer on delivery of the goods by the Company to the Customer.
- 7.3 The Customer shall notify the landlord of the premises where the goods are kept, of the Company's ownership of all and any goods which have not been fully paid for, and shall, if required by the Company, furnish the Company with the name and contact details of such landlord.
- 7.4 Until the goods have been paid for in full the Customer shall, at its own costs and expense. Comprehensively insure the goods with a registered insurer against third party claims and against all loss and damage. Pending payment for the goods the Customer hereby cedes to the Company all its rights in and to such insurance and agrees and shall procure that all proceeds paid by any insurer in respect of the goods so insured shall be paid to the Company.

8. WARRANTIES & INDEMNITY

- 8.1 Save for any manufacturer's warranty on the goods, the Company does not or make any warranties, guarantees, undertakings or representations of whatsoever nature, whether express or implied, as to the quality or condition of the goods or their fitness or suitability for any purpose.
- 8.2 The Company's liability for the breach of any manufacturer's warranty shall be limited to and shall be fully discharged by the replacement of the relevant goods: Provided that regard will be had to any use of the goods by the Customer.

8.3 Save to the extent set out above, the Customer hereby indemnifies and holds the Company harmless against any and all losses, injury, damage, fines, penalties and claims of whatsoever nature and howsoever arising from or connected with the goods, or the use or possession thereof and whether or not such claims are caused by any act or omission of the Customer or by anyone else.

9. NOTIFICATION BY THE CUSTOMER

9.1 The Customer shall give the Company at least 14 (fourteen) days prior written notice of any intended change in its shareholding, members, directors, owners or partners and/or of any intended sale of its business or the major portion of its assets and/or of any change of its registered or trading address, and failure to do so will constitute a material breach of this agreement. Notwithstanding any such change or safe, the Customer shall at all times remain ultimately liable for its obligations to the Company under this agreement.

9.2 The Customer shall furthermore notify the Company In writing immediately them is any change in its financial or business affairs which might reasonably have die effect of prejudicing the Company's rights under this agreement, or the Customer's ability to meet its obligations, under this agreement.

10. UNDERTAKINGS/ WARRANTIES BY CUSTOMER

10.1 The Customer undertakes on request to submit annual financial statements and/or interim financial statements and/or management accounts to the Company. If the Customer is a company then the annual financial statements shall be independently audited and copies thereof provided to the Company within three months of each financial year end.

10.2 The Customer represents and warrants that there are no pending or threatened investigations, legation or proceedings affecting the Customer which may adversely effect its business or its ability to meet its obligations to the Company under this agreement.

11. SECURITIES

11.1 The Customer shall provide and/or procure the signature and/or conclusion and or execution, to and/or in favour of the Company, of such securities ("the securities") as the Company may from time to time consider necessary to secure the Customer's obligations to the Company hereunder,

11.2 The securities shall be in such form and shall contain such terms and conditions as may be required and/or acceptable to the Company, In the Company's sole and absolute discretion, and the Customer undertakes to do all such things and to sign all such documents necessary and/or required to give effect to the preparation, signature and registration of the securities.

11.3 Notwithstanding anything to the contrary contained In this agreement, the Company shall not be obliged to extend or maintain any credit facilities to the Customer, or deliver any goods to the Customer, unless and until all of the securities have been provided to the satisfaction of the Company (in the Company's sole and absolute discretion). To the extent that the Company may have already extended any credit to the Customer, the Company shall be entitled to withdraw or vary the nature and/or extent of thereof as provided for in clause 22.

12. BREACH

12.1 If the Customer should breach any provision of this agreement; or commit any act of Insolvency; or assign, surrender Or attempt to assign or surrender its estate; or be sequestered or wound up (whether provisionally or finally): or compromise with any of its creditors or endeavour or attempt to do so; or suffer any judgement to be entered against it and fail to take steps to rescind such judgement within seven days of the judgement coming to its knowledge, or fail to satisfy such judgement within seven days of the refusal of rescission thereof; or make any incorrect or untrue statement or representation in connection with this agreement and/or its application for credit facilities, then and upon the happening of any of these events the Company shall be entitled in its election and without prejudice to any of its other rights at law or hereunder, to forthwith -

12.1.1 cancel all or any part of the credit granted by the Company to the Customer, and claim and receive payment for all goods sold by the Company to the Customer notwithstanding that the due date for payment thereof may not have arrived; and

12.1.2 retake possession of all goods not fully paid for. The Customer shall allow the Company and/or its authorized agents or representatives, access to the premises at which such goods are kept to enable such goods to be collected by the Company.

12.2 The Customer shall be liable to pay to the Company all costs and disbursements incurred by the Company in enforcing its rights under this agreement, in tracing the Customer or any goods not fully paid for by the Customer, and in recovering possession of such goods, including, without limitation, legal costs on the scale as between attorney and client, tracing costs. collection commissions, transport costs and all other fees/charges of a like nature.

13. DOMICILIUM

For all purposes of and in connection with this agreement the Customer chooses as its *domicilium citandi et executandi* ("*domicilium*"), the physical and/or postal address/es set out In Section A hereof. at which address all notices, demands, communications and court process may be given, made or served; Provided that the Customer may change its *domicilium* to another address which includes a physical address within the Republic of South Africa, by written notice delivered by hand or sent by pre-paid registered mail to the Company.

14. JURISDICTION

14.1 The Customer hereby consents to the jurisdiction of the magistrate's court having jurisdiction over its person in respect of all legal proceedings arising form this agreement not/notwithstanding that the amount of the matter in dispute exceeds the court's jurisdiction: Provided that the Company shall be entitled to Institute such proceedings in any division of the High Court having jurisdiction.

14.2 In the event that the Customer and/or the goods are at any time domiciled or situated outside of the Republic of South Africa, the Customer hereby consents to the jurisdiction of the High Court of South Africa having jurisdiction over the person of the Company from time to time, alternatively at the election of the Company, to the Gauteng Provincial Division of the High Court of South Africa, in respect of all matters arising out of and disputes in connection with or in relation to this agreement: Provided that the Company shall be entitled, at its election, to institute proceedings against the Customer in any other Court in such other country having jurisdiction in the matter.

15. CERTIFICATE OF INDEBTEDNESS

A certificate signed by any manager or director of the Company, whose capacity and authority need not be proved, shall be *prima facie* proof of the evidence stated therein in respect of any indebtedness of the Customer to the Company or In respect of any other fact, for the purpose of obtaining a judgement or order against the Customer in any competent court.

16. CESSION AND DELEGATION

16.1 The Customer may not cede any of its rights or delegate any of its obligations under this agreement and waives all the benefits conferred upon it by the Prescription Act 68 of 1959, as amended, and agrees that it is thereby precluded from pleading prescription (whether acquisitive or extinctive) as a defence against any claim of the Company.

16.2 The Company shall be entitled, without notice to the Customer, to cede or cell or any part of its rights under this agreement, including its rights of ownership in the goods, or to assign or delegate any of its obligations hereunder, without the consent of the Customer if such cession and/or assignment occurs the Customer undertakes to hold any goods not fully paid for on behalf of and in accordance with the instructions and directions the cessionary in place of the Company, and, if so required by the cessionary, make all payments directly to such cessionary.

17. CREDIT ASSESSMENT & INFORMATION

The Customer acknowledges and agrees –

- 17.1 that all information and details given by it to the Company is/are to be used to assess the Customer's credit and financial position for the purposes of granting it credit;
- 17.2 and warrants that all such information and details is/are true and correct and complete in all respects. and that it has disclosed all facts material to such assessment;
- 17.3 that the Company shall be entitled from time to time to obtain from any person or credit bureau information relevant to the Customer's credit and financial position for the purpose of assessing the credit facilities afforded the Customer;
- 17.4 and authorises the Company to furnish information concerning the Customer's dealings with the Company to any credit bureau or Other person seeking trade references or credit information on the Customer.

18. GENERAL

- 18.1 whole agreement - This agreement is the whole agreement between the parties and no variation or amendment thereof will be of any force and effect unless reduced to writing and signed by both parties.
- 18.2 no representations - The parties acknowledge that no representations or warranties have been made other than those recorded herein.
- 18.3 Indulgences - No relaxation of indulgence granted by the Company to the Customer in regard to any of the terms and conditions herein shall be deemed to be a waiver of any of the Company's rights in terms of this agreement.
- 18.4 applicable law - This agreement is in all respects governed and construed in accordance with the laws of the Republic of South Africa, in force from time to time.
- 18.5 severability - If any provision of this agreement is or becomes illegal, invalid or unenforceable, such provision shall be severed and the remaining provisions of the agreement shall continue unaffected.
- 18.6 warranty of authority - If the person signing this agreement is signing on behalf of a juristic or other person, then the person so signing expressly warrants his authority to do so.
- 18.7 joint and several liability - Should two or more persons sign this agreement as the Customer then the said persons shall be liable jointly and severally in *solidum* for the due performance of the Customer's obligations in terms hereof.

I/we have read and agree to be bound by the terms and conditions set out herein

CUSTOMER'S SIGNATURE:

SURETYSHIP

Company's name - ("the Company")
Customer's name - ("the Customer")

I/We, the person(s) set out below, do hereby interpose and bind myself/ourselves, jointly and severally, as surety/ies and co-principal debtor/s in *solidum*, unto and in favour of the Company for the due and punctual payment on demand of all and any sums of money which the Customer may now and from time to time hereafter owe or be indebted to the Company from any cause whatsoever and whether presently due, owing and payable or becoming due, owing and payable in the future.

This suretyship is a continuing covering suretyship and shall be in addition and without prejudice to any other suretyship/s or security/ies held by the Company in respect of and for the present and future obligations of the Customer to the Company. All acknowledgements of indebtedness and admissions by the Customer shall be binding on me/us.

The Company shall have the right to appropriate any moneys received by the Company from me/us or any of us in terms hereof, to such indebtedness of the Customer to the Company as the Company shall decide.

Should I/we at any time in defending any action based on this Suretyship allege that no money was paid over by the Company to the Customer and/or that there is no reason or cause for the Customer's obligations to the Company and/or that errors have been made in the calculation of the amount claimed, then the onus of proving such a defence will rest on me/us.

I/we renounce the benefits of excussion (*by renouncing this benefit I/we understand that the Company becomes entitled to sue me/us for the full amount owing under this suretyship without first proceeding against the Customer*) and division (*by renouncing this benefit I/we understand that where there is more than one surety, the Company will be entitled to sue each such surety for the full amount owing by the Customer and not only for a pro rata share*) and cession of action (*by renouncing this benefit I/we understand that the Company becomes entitled to sue me/us without first ceding the Company's right of action against the Customer to me/us*).

I/We agree that a certificate signed by any director or manager of the Company (whose appointment need not be proved) will be sufficient proof of the amounts due by the Customer and/or by me to the Company, unless the contrary is proved.

I/we choose *domicilium citandi et executandi* for all purposes under this suretyship at the address/es, set out below against my/our name/s. If I/we change my/our address as set out below, then I/we will immediately notify the Company in writing of my/our new address. On receipt by the Company of such written notice, the new address will be my/our *domicilium*.

At the option of the Company, any claim against me/us arising hereunder may be brought in any Magistrate's Court having jurisdiction, notwithstanding that the amount of that claim may exceed the jurisdiction of the said Magistrate's Court.

IAAfe agree that each of the person/sureties set out below shall be bound *in solidum*, irrespective of whether or not the other or others of us referred to herein will have executed this document or become bound in terms hereof.

I/We agree to be liable for all costs and disbursements (including attorney and client legal costs) incurred by the Company in enforcing its rights against me/us in terms of this suretyship.

In this suretyship words importing the singular shall include the plural and *vice versa*, words importing the masculine gender shall include the other gender/s and *vice versa*, and natural persons shall include juristic persons and *vice versa*.

I/We acknowledge that I/we have read and understand this deed of suretyship, that I/we have had opportunity to get independent legal advice to make sure that I/we understand it, and that it was completed in all respects when I/we signed it

Director(s)/Member(s)/Partner(s) Names Residential Address Signature

Identity No.: _____ Date _____

Witness Name: _____ Witness ID No. _____ Witness signature: _____

Identity No.: _____ Date _____

Witness Name: _____ Witness ID No. _____ Witness signature: _____