

# STANDARD TRADING TERMS AND CONDITIONS

## 1. INTERPRETATION

In this Agreement -

- 1.1 clause headings are for convenience and shall not be used in its interpretation;
- 1.2 unless the context clearly indicates a contrary intention—
- 1.2.1 an expression which denotes—
- 1.2.1.1 any gender includes the other genders;
- 1.2.1.2 a natural person includes an artificial person and *vice versa*;
- 1.2.1.3 the singular includes the plural and *vice versa*;
- 1.2.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings—
- 1.2.2.1 “the Company” – Netelek (Pty) Ltd, or if it exercises its rights under clause 2, the member of the Group in respect of which it exercises its rights;
- 1.2.2.2 “the Customer” – the person whose name appears on the credit application which is annexed hereto, under section A “Customers Personal Details”, or if no such application is annexed hereto, or no name appears thereon, or in any other circumstances, any person or persons at whose request or on whose behalf the Company undertakes to supply any Goods, do any business, or provide any advice or service;
- 1.2.2.3 “Goods” – any items or services of whatsoever nature that are supplied by the Company to the Customer in terms of this Agreement;
- 1.2.2.4 “the Group” – the Company and any company which is a holding company or subsidiary of the Company or is held by any of the holding companies of which the Company is a subsidiary, which may from time to time render services or provide products to the Customer in terms of this clause;
- 1.2.2.5 “Signatory” – the individual who signs this Agreement and the annexed Credit Application on behalf of the Customer.

## 2. MEMBERS OF THE GROUP RENDERING SERVICES TO THE CUSTOMER

The Company may at its choice perform all and any business undertaken or provide advice, information or services, whether gratuitous or not, either itself or it may determine that any member of the Group undertakes such business or provides such advice, information or services as principal upon and subject to the conditions contained herein, which shall apply *mutatis mutandis* to the Customer

and any such member of the Group.

## 3. THESE TERMS AND CONDITIONS TO PREVAIL

- 3.1 Notwithstanding anything in the Customer's enquiry, specification, acceptance, order or other documentation or any other documentation or discussion/s to the contrary, the terms and conditions contained herein shall constitute the sole terms of the Agreement between the Company and the Customer and shall operate in respect of any and all business between the Customer and the Company. The effect of this clause shall not be to override any written agreements signed by both parties and these Standard Trading Terms and Conditions shall be deemed to supplement such written agreements insofar as the provisions thereof are not in conflict with the aforesaid written agreements.
- 3.2 All and any business undertaken, including any advice, information or service provided whether gratuitously or not by the Company is and shall be subject to the terms and conditions contained herein, and each term and condition shall be deemed to be incorporated in and to be a term and condition of any agreement between the Company and the Customer.
- 3.3 To the extent that this Agreement appears on the reverse of an invoice or any other documentation of the Company and there is no relevant credit application the Customer shall be deemed to be the person to whom the invoice or other document is addressed, and the Signatory shall be deemed to be the person signing the invoice or other documentation, the terms and conditions of this Agreement shall apply *mutatis mutandis* to such person and Signatory.

## 4. NO VARIATIONS OR AMENDMENTS

- 4.1 This Agreement constitutes the whole agreement between the Customer and the Company relating to the subject matter hereof.
- 4.2 No amendment of this Agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by an authorised representative of the Company. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 4.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against the Company in respect of its rights under this Agreement, nor shall it operate so as to preclude the Company thereafter from exercising its rights strictly in accordance with this Agreement.
- 4.4 The Company shall not be bound by any express or implied term, representation, warranty, promise or the like not

recorded herein, whether it induced the contract between the Company and the Customer or not.

- 4.5 No person other than a duly authorised representative of the Company has any authority to delete, amend or in any respect vary any of these conditions or accept any other conditions or agree to a consensual cancellation hereof.

## 5. QUOTATIONS

- 5.1 Any quotation given is not an offer by the Company to sell the Goods but constitutes an invitation by the Company to the Customer to do business with the Company.
- 5.2 A quotation may be revoked at any time by the Company.
- 5.3 The Company may accept or reject in whole or in part any order placed upon it by the Customer pursuant to the quotation. Accordingly, a contract shall only come into force between the Company and the Customer if after receipt by the Company of the Customer's order or acceptance of the quotation, the Company informs the Customer of confirmation of the order.
- 5.4 The quotation is based on rates of exchange, freight charges, insurance, railage, costs of labour and materials and other charges ruling at the date of the quotation. Any variations occurring subsequent to the date of the quotation in any of the aforesaid rates or charges, as the case may be, shall entitle the Company to vary the amount of the quotation accordingly.

## 6. PLACING OF ORDERS

- 6.1 If telephone orders are placed by the Customer, the Company may require such orders to be confirmed in writing by the Customer, prior to acceptance by the Company.
- 6.2 An order may not be withdrawn until accepted or rejected by the Company. Any such order shall upon acceptance thereof by the Company be irrevocable by the Customer. In the event that the Customer elects to cancel an order such order shall be cancelled at the sole discretion of the Company against compensation for costs incurred.

## 7. PURCHASE PRICE AND PAYMENT

- 7.1 Orders are accepted by the Company only on the basis that the prices charged will be those ruling at the date of despatch of the Goods, unless otherwise expressly stated. A copy of the Company's ruling prices from time to time may be obtained from the Company by the Customer on request.
- 7.2 Unless otherwise expressly stated, prices are exclusive of value added tax which shall be for the account of the Customer unless the Customer has given acceptable proof to the Company that the supply is a zero rated or an exempt supply. The Customer shall pay or reimburse to the Company the amount of any value added tax simultaneously with the purchase price.
- 7.3 The Customer shall be obliged to pay to the Company in

addition to the contract price herein -

- 7.3.1 the amount of any tax, duty or other charge of any nature whatsoever imposed by any law, regulation or enactment of whatsoever nature which comes into force on a date after the date on which any price charged is determined;
- 7.3.2 any other additional costs of any nature whatsoever arising due to factors beyond the control of the Company. In particular, but without limiting the generality of the foregoing, the Company shall be entitled to increase the purchase price in respect of any Goods supplied in order to make provision for any increases in cost arising as a result of or during the period of any delay caused by the Customer.
- 7.4 Any expense incurred by the Company at the instance of the Customer in modifying or otherwise altering or making additions to the design, quantities or specifications for standard goods, and any expenses arising as a result of suspension of work by the Company due to instructions given, or a failure to give instruction by the Customer, shall be added to the purchase price in respect of the relevant Goods.
- 7.5 The purchase price in respect of any Goods sold by the Company to the Customer in terms of this Agreement shall be payable -
- 7.5.1 by the Customer to the Company, at the Company's head office or at such other place as the Company may direct from time to time;
- 7.5.2 in cash;
- 7.5.3 in South African currency without deduction or set-off and free of any exchange, and
- 7.5.4 during or before the expiry of the credit period indicated on the credit application which is annexed hereto, which period shall commence upon the issuing of an invoice by the Company, or if there is no credit period indicated, or no credit period has been approved in terms of 7.6 below, or no dealer application is annexed, cash on order.
- 7.6 After the completion of the credit application by the Customer the Company shall at its own discretion be entitled to -
- 7.6.1 make such enquiries as it may deem necessary to determine whether or not to grant the Customer credit as applied for in the dealer application,
- 7.6.2 determine whether or not to grant the Customer credit as applied for in the dealer application, and as may be amended from time to time at the sole discretion of the Company, and
- 7.6.3 inform the Customer of the determination made pursuant to 7.6.2 above.
- 7.7 Until a determination is made by the Company as contemplated in 7.6.2 above any Goods supplied by the Company to the Customer shall be supplied on a cash on order basis only.
- 7.8 The Company shall not be obliged to make a determination

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in terms of 7.6.2 above and to the extent that it does not, any Goods supplied by the Company to the Customer shall be supplied on a cash on order basis only.

- 7.9 The purchase price does not include charges for, transport, special packaging, loading or off-loading of the Goods at the Customer's premises. The Customer shall provide at its cost the necessary labour, equipment or facilities required for off loading of the Goods.
- 7.10 The Customer has no right to withhold payment for any reason whatsoever. The Customer is not entitled to set off any amount due to the Customer by the Company against any debt owed by the Customer to the Company nor shall any payment be withheld by virtue of any alleged counterclaim against the Company by the Customer.
- 7.11 The Customer hereby agrees that any item handed in for repair may be sold by the Company to defray the cost of such repairs and the Company's usual storage cost, if the item remains uncollected within 30 days of the repair being completed.

## 8. RISK

The risk of damage to or destruction of any relevant Goods passes to the Customer on delivery thereof by the Company to the Customer.

## 9. REPAIRS

Any repair times given by the Company are merely estimates and the Company shall not be bound thereby.

## 10. THIRD PARTY GOODS

Where the Goods or any part thereof are to be procured, this Agreement is subject to any third party contracts, associated with the procurement of Goods, or any part thereof.

## 11. DELIVERY

- 11.1 Any delivery date indicated by the Company shall merely be regarded as the estimated date of delivery and shall not bind the Company to effect delivery on or near such date.
- 11.2 The Customer shall accept delivery whenever it is tendered and shall not be entitled to resile from the Agreement nor to withhold or defer any payment nor to a reduction in price nor to any other right or remedy against the Company, its servants, agents or any other persons for whom it is liable in law (in whose favor this constitutes a *stipulatio alteri*) whether for losses, costs, damages, expenses, interest or otherwise (not limited *eiusdem generis*) on account of delays in effecting delivery, partial delivery or non-delivery, whether occasioned by any negligent (including grossly negligent) act or omission on the part of the Company, its servants, agents or any other persons for whom it is liable in law, or not.
- 11.3 If delivery of any particular order is to be effected in

consignments, the Company shall not be obliged to deliver any part of the order until the purchase price which is due in respect of the part of the order which has already been delivered has been paid.

- 11.4 The Company shall have the right to deliver any portion of the Goods sold without delivery of all the Goods sold, or making provision for delivery of all the Goods sold, and to invoice the Customer therefor and the Customer shall accept such Goods when tendered.
- 11.5 If the Goods are to be delivered by road, the Customer shall be obliged to ensure that the delivery destination shall be easily accessible to road transport vehicles. The Customer shall be responsible for off-loading the Goods at the delivery destination. If the Goods are to be delivered by air or rail, the Customer shall be responsible for collection of the Goods at the airport or railhead.
- 11.6 The Customer shall be obliged to inspect all Goods upon delivery and shall endorse the delivery note as to any missing or damaged Goods. No claims for missing or damaged Goods shall be valid unless the delivery note has been endorsed as aforesaid and unless, in addition, the Customer notifies the Company in writing within 3 business days of the delivery of the Goods of the claim in question and the Goods relating to such claim, furnishing full details in regard thereto. The Customer shall bear the *onus* of proving that upon delivery, any Goods are missing or damaged or that the Customers order was in any way not complied with.
- 11.7 If the Company is unable to deliver the Goods to the Customer due to any act or omission on the part of the Customer, it shall be entitled to invoice the full amount and in addition charge the Customer for all storage and related charges.
- 11.8 The Customer shall be obliged to furnish information necessary to enable delivery of the relevant Goods to be effected and if the Customer fails or refuses to do so, or if it fails or refuses to take delivery, the Goods shall, without prejudice to the provisions of clause 7.7, be deemed to have been delivered to the Customer upon notification by the Company to the Customer to that effect.
- 11.9 If the Company agrees to engage a third party to transport the Goods, the Company is hereby authorised to engage a third party on the Customer's behalf and on the terms deemed fit by the Company. The Customer hereby indemnifies the Company against any claims that may arise from such agreement against the Company.

## 12. WARRANTIES AND GUARANTEES

- 12.1 No Warranties, guarantees or representations, express or implied or tacit whether by law, contract or otherwise and whether they induced the contract or not, which are not set forth in this Agreement shall be binding on the Company, the Customer irrevocably waiving any right (common law or otherwise) it may have to rely thereon, and the Goods are purchased on the basis that they are taken *voetstoots* and with the exclusion of all common law and other remedies including aedilician remedies, whether as to the suitability of

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- the Goods sold for any specific purposes or (without limiting the generality of the foregoing) otherwise.
- 12.2 To the extent that Goods supplied by the Company are in any way defective, the Customer shall be entitled, within one year of the delivery of the relevant Goods, to claim the replacement or repair of Goods to eliminate any defect in workmanship or materials found to be due exclusively to any acts or omissions on the part of the Company, in the Company's sole opinion, of which defects the Company shall have been notified in writing by the Customer within 10 days after the defect arises (which notice shall specify the alleged defect), provided that the Company shall have been given a reasonable opportunity of inspecting any alleged defect. The Company shall not be responsible for costs incurred in dismantling or fitting replacement parts or reassembling the Goods. The Company's liability shall be limited on return to the Company of the Goods or parts thereof, to what is set out above in this sub-paragraph.
- 12.3 In order to be valid a claim in terms of the guarantee as set out in clause 12.2 must be in writing, specifying the alleged defect, and supported by the original tax invoice. In addition the Goods must be returned by the Customer to the Company at the Customer's expense, packaged in suitable protective packaging material.
- 12.4 The parties agree that the Company shall have no liability in respect of any injury, loss or damage (direct, indirect or consequential) arising out of the use of, or inability to use, the Goods and whether or not occasioned by the Company's negligence (gross or otherwise) or any act or omission on its part. Without limiting the foregoing the Company does not warrant that the Goods will be fit for the purposes for which they are to be used by the Customer, notwithstanding that the use to which the Customer intends to put the Goods has been explained or made known to the Company. For the purposes hereof, any reference to the Company shall include its servants, agents or contractors or any person for whose acts or omissions the Company may be liable in law. This also constitutes a *stipulation alteri* in favour of such persons the benefits of which maybe accepted by them at any time.
- 12.5 The Company shall be relieved of all obligations in terms of this clause, if—
- 12.5.1 repairs or modifications have been made by persons other than the Company, unless such repairs or modifications are made with the prior written consent of the Company;
- 12.5.2 any Goods are operated with any accessory, equipment or part not specifically supplied or approved in writing by the Company;
- 12.5.3 the Goods shall not have been operated or maintained in accordance with the Company's instruction, or under normal use; the Goods shall not have been properly installed.
- 12.6 If repairs or replacements are effected by the Company, only the parts actually worked on and not the complete Goods shall be subject to a repair guarantee of six months from date of repair.
- 12.7 Customers who acquire Goods for the purpose of on-selling those Goods, whether that Customer is permitted to do so or not (and nothing herein contained shall be deemed to allow that Customer to on-sell Goods acquired from the Company whilst ownership vests in the Company), shall not advertise or issue or in any other way give or make any warranties guarantees or representations as to the Goods in any form whatsoever or offer to do so, which could result in liability being imposed upon the Company.
- 13. HANDLING FEE ON RETURN OF GOODS**
- The Company reserves the right to levy a handling fee of 10% of the purchase price of the relevant Goods on such Goods returned to and accepted by the Company. The Company is not obliged to accept the return of any Goods and this clause shall not be used to imply that the Company shall be obliged to accept the return of any Goods.
- 14. AVAILABILITY OF IMPORT PERMITS**
- The Company's obligations hereunder shall be subject, in those cases where the Goods or part thereof are to be imported, to the availability of an import permit to the Company.
- 15. OWNERSHIP**
- 15.1 Ownership of the Goods shall not pass to the Customer until the contract price (including interest, if any) in respect of the Goods in question has been paid. The provisions hereof shall apply notwithstanding the installation of such Goods in the Customer's premises or the accession thereof to any of the Customer's goods or that the Goods may be incorporated into or form part of other goods or change their essential character. All Goods, whether fixed to immovable property or not, shall be deemed to remain movable property and be deemed to be severable without injury to either property.
- 15.2 The Company reserves the right to inform the owner/landlord of the premises in which the Goods are or at any time may be, of the provisions of this clause. The Customer shall be obliged to advise the Company of the name and address of the landlord of any such premises and shall promptly advise the Company of any change in the name and/or the address of any landlord or of any new landlord.
- 15.3 The Customer shall take all such steps as may be necessary to notify interested third parties that ownership of the relevant Goods has not passed from the Company to the Customer. In particular the Customer shall inform the owner/landlord of the premises in which the Goods are or at any time may be, of the provisions of this clause. The Customer shall produce written proof of such notices to the Company on demand.
- 16. INTELLECTUAL PROPERTY RIGHTS**

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- 16.1 "Software" shall mean computer application software developed by the Company including, without limiting the generality of the foregoing, recently available and future upgrades, modifications and enhancements thereto and the documentation associated with the Software, including installation and user manuals, whether incorporated in humanly intelligible media or not.
- 16.2 The Customer acknowledges that any and all of the intellectual property rights including trade marks, trade names, copyright and other rights used or embodied in or in connection with the Software are and will remain the sole property of the Company.
- 16.3 The Customer may not modify, decompile, or reverse engineer the Software.
- 16.4 The Customer shall not question or dispute the ownership of the Company's rights in the Software at any time.
- 16.5 Disclaimer of warranty. All express or implied conditions, representations and warranties, including any implied warranty of merchantability or fitness for a particular purpose or non-infringement are disclaimed, except to the extent that these disclaimers are held to be legally invalid. Software is provided "as is".
- 16.6 Limitation of liability. To the extent not prohibited by law, in no event will the Company be liable for any lost revenue, profit or data, or for special, direct, indirect, consequential, incidental or punitive damages, howsoever caused, regardless of the theory of liability, arising out of or related to the use of or inability to use the software, even if the Company has been advised of the possibility of such damages. In no event will the liability of the Company, whether in contract, delict (including negligence) or otherwise, exceed the amount (if any) paid by the Customer for the Software. The foregoing will apply even if the above stated warranty disclaimer fails of its essential purpose.

#### 17. SUBSTITUTE GOODS OR PARTS

- 17.1 The Company shall be entitled to substitute for any Goods specified in this Agreement such other goods which the Company in its sole discretion may regard as suitable substitutes therefor.
- 17.2 The Company reserves the right to alter specifications as conditions warrant without notice. Should conditions render unavailable any materials or Goods specified herein or otherwise required in order to fulfil this Agreement, a substitution deemed by the Company to be suitable for the performance of its obligations will be supplied.

#### 18. DOCUMENTATION

All specifications, descriptive matter, drawings and other documents furnished by the Company do not form part of the contract and may not be relied upon, unless they are agreed in writing by the Company to form part of this contract. All descriptive matter, specifications, drawings and particulars given by the Company which form part of the

contract are approximate only and the Company cannot be held responsible for loss due to discrepancies therein.

#### 19. INSURANCE

The Company shall have the option to require the Customer, at its own expense, and prior to taking delivery of the Goods, to insure the Goods and thereafter keep the Goods insured until such time as the Goods have been paid for in full. Such insurance shall be taken with such insurers as may be approved by the Company in writing, for such amount and on such terms as may be approved by the Company in writing. The insurance policy shall record the interest of both the Company and the Customer. The Customer shall, if so required by the Company, cede to the Company all its rights in terms of such insurance policy. The Company shall exercise the said option by giving the Customer written notice that it is doing so at any time prior to the delivery of the Goods by the Company to the Customer.

#### 20. BREACH

- 20.1 Subject to clause 20.2, if the Customer breaches any of the terms or conditions hereof or any other agreement with the Company or fails to pay any amount payable by it on due date or commits any act of insolvency or endeavours to compromise generally with its creditors or does or causes to be done anything which may prejudice the Company's rights hereunder or at all, or allows any judgement against it to remain unsatisfied for 7 days or is placed into provisional or final liquidation or judicial management or under provisional or final sequestration or if his estate is voluntarily surrendered the Company shall have the right, without prejudice to any other right which it may have against the Customer, to elect to –

20.1.1 treat as immediately due and payable all outstanding amount which would otherwise become due and payable over the unexpired period of the Agreement and to claim such amounts as well as any other amounts in arrear including interest and to cease performance of its obligations hereunder as well as under any other contract with the Customer until the Customer has remedied the breach; and/or

20.1.2 cancel this Agreement and retake possession of any of the Goods sold.

- 20.2 The Company shall not be obliged to comply with its obligations hereunder in any respect whatsoever for so long as the Customer is indebted to the Company in any amount whatsoever in respect of any cause whatsoever or fails to comply with any other obligations to the Company, whether arising out of this contract or otherwise. In particular, without limiting the generality of the foregoing, if delivery of any particular order is to take place in stages, the Company shall not be obliged to deliver any part of the order until the purchase price which is due in respect of the part of the order which has already been delivered, has been paid.

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- 20.3 No claim under this contract will arise against the Company unless the Customer has given the Company 30 days written notice sent by prepaid registered post to rectify any defect or breach of contract.
- 20.4 The Customer agrees that the amount due and payable to the Company shall be determined and proven by a certificate issued by the Company and signed on its behalf by any person duly authorised by the Company, which authority need not be proven. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.
- 20.5 The Customer hereby indemnifies the Company against any and all damage of whatsoever nature, howsoever and by whomsoever caused in relation to the removal of Goods, and without derogating from the generality of the foregoing, the removal of repossessed Goods from the premises of the Customer.
- 20.6 The Customer hereby agrees that the Company shall not be required to furnish security in terms of rule 62 of the Rules of Court of the Magistrate's Court.
- 20.7 The Company shall have the right to institute any action in either the relevant Magistrate's Court or the High Court at its sole discretion.
- 20.8 The Customer consents that the Company may at any time communicate with any registered Credit Bureau to obtain any information regarding its payment behaviour, credit worthiness or defaults and is advised that the Company may forward to any registered Credit Bureau information relating to how the Customer has performed in meeting its obligations and record with such Credit Bureau any non-performance with the Customer's obligations under any agreement concluded between the Company and the Customer.
- 21. DOMICILIUM AND NOTICES**
- 21.1 The parties choose as *domicilium citandi et executandi* ("domicilium") for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Agreement at their addresses and telefacsimile numbers as set out in the dealer application annexed hereto.
- 21.2 Each of the parties shall be entitled from time to time, by written notice to the other, to vary its *domicilium* to any other address which is not a post office box or *poste restante*.
- 21.3 Any notice given and proof of any payment made by any party to any other ("the addressee") shall be in writing and if—
- 21.3.1 delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
- 21.3.2 posted by prepaid registered post from an address
- 21.3.3 transmitted by telefacsimile from an address to the addressee at the addressee's telefacsimile address for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the fourth day after the date of transmission.
- 22. NO CESSION**
- The Customer shall not be entitled to cede or assign any rights and/or obligations which it may have in terms of this Agreement to any third party.
- 23. SECURITY FOR OBLIGATIONS**
- The Company reserves the right to require satisfactory security from the Customer for the due performance of any of the Customer's obligations hereunder including but not limited to the payment of the purchase price. If the Company so requires, the Customer shall deliver to the Company prior to the Company complying with any of its obligations hereunder, confirmed irrevocable letters of credit by financial institutions acceptable to the Company. If such security or guarantees or letters of credit are not furnished within 7 days after any such demand, the Company shall be entitled to withdraw from the contract in whole or in part.
- 24. COSTS**
- 24.1 The Customer shall be liable for all costs incurred by the Company in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale and costs of counsel as on brief whether incurred prior to or during the institution of legal proceedings or if judgment has been granted, in connection with the satisfaction or enforcement of such judgment.
- 24.2 The Customer undertakes to pay the cost of the suretyship and cession contained herein, including any stamp duty payable thereon and agrees that such costs can be debited to the Customer's account upon acceptance.
- 25. SURETYSHIP AND WARRANTY OF AUTHORITY**
- 25.1 The Signatory, by his signature hereto, binds the Customer in favor of the Company, its successors-in-title and assigns as surety for and co-principal debtor in solidum with the Customer for the due and punctual performance by the Customer of all its obligations to the Company in terms of this Agreement.
- 25.2 The suretyship in 25.1 shall remain of full force and effect

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notwithstanding—

25.2.1 any amendment/s to this Agreement and/or any other agreement for the time being subsisting between the parties;

25.2.2 any indulgence, concession, leniency or extension of time which maybe shown or given by the Company to the Customer.

25.3 The Signatory hereby renounces the benefits of the legal exceptions "*non causa debiti*", "*errore calculi*", "excussion", "*de duobus vel pluribus reis debendi*", "no value received" and "revision of accounts", with the meaning and effect of all of which he declares himself to be fully acquitted.

25.4 The Signatory warrants, as a material warranty which the Signatory relies on in entering into this Agreement, that he is duly authorised by power of attorney, to represent and bind the Customer to this Agreement, and that he has read and understood each term and condition of this Agreement and accepts them as binding on him and the Customer. The Customer hereby warrants that it regards the terms and conditions of this Agreement as binding upon it.

25.5 The Signatory and the Customer hereby warrant that the Signatory to any order placed by the Customer, or tax invoice, delivery note or other documentation of the Company made out in the name of, or to the Customer is duly authorised to bind the Customer in respect of the relevant transaction.

25.6 The Signatory shall be bound by the provisions of this Agreement as if he were the Customer, *mutatis mutandis*, particularly, but without limitation thereto, insofar as the Agreement provides for proof of facts, costs of proceedings, service of process, limitations of defences and jurisdiction.

**26. EXEMPTION AND INDEMNITY**

The Customer shall have no claim of any nature whatsoever whether for damages, a remission of the purchase price, cancellation or otherwise, against the Company, its servants, agents or others on whose behalf the Company would be liable, in respect of any loss or damage sustained by the Customer of any nature whatsoever or any damage caused to the assets of the Customer or assets kept on its premises by any third parties or in regard to the Customer's business or sustained by any of its Customers, howsoever caused including the negligent (including grossly negligent) acts or omissions of the Company, its servants, agents or others for whom it may be liable in law. This constitutes also a *stipulatio alteri* in favour of such persons the benefits of which may be accepted by them at any time.

**27. CONSEQUENTIAL LOSS**

Under no circumstances whatsoever including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall the Company be liable for any consequential loss sustained by the

Customer. This also constitutes a *stipulatio alteri* in favour of such persons the benefits of which may be accepted by them at any time.

**28. SEVERABILITY**

Each paragraph or clause in this Agreement is severable the one from the other and if any paragraph or clause is found by any competent court to be defective or unenforceable for any reason whatever, the remaining paragraphs or clauses shall be of full force and effect and continue to be of full force and effect.

**29. FORCE MAJEURE**

Any transaction is subject to cancellation by the Company due to *force majeure* from any cause beyond the control of the Company, including, without restricting the generality of the foregoing, inability to secure labour, power, materials or supplies, or by reason of an act of God, war, civil disturbances, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

**30. FURNISHING OF INFORMATION BY CUSTOMER**

The Customer shall forthwith after the conclusion of the contract, furnish the Company with all information reasonably required by the Company to enable it to comply with its obligations.

**31. RECEIPT OF DOCUMENTS, CHEQUES ETC**

No notices, cheques, cash or other documents sent to the Company through the post shall be deemed to have been received unless and until actually received by the Company.

**32. HEADINGS**

The clause headings in this Agreement are for reference purposes only and shall not be used in the interpretation of this Agreement.

**33. INTEREST**

The Customer shall pay interest at the publicly quoted basic rate *per annum* ruling from time to time at which Nedbank of South Africa Limited lend on overdraft plus an additional 3 %, (three percentage points), which rate shall be proved by way of a certificate signed by any employee of such Bank, compounded monthly in arrear, on all amounts owing by the Customer to the Company which have not been paid on the due date thereof, reckoned from the due date thereof until date of payment. Such interest shall be payable on demand.

**34. CREDIT BUREAUX**

The Customer consents that the Company may at any time

ISO REGISTERED COMPANY – CERTIFICATE No. 1106ZA

99 Fascia Street, Silvertondale, 0184  
P.O. Box 73130, Lynnwood Ridge, 0040  
South Africa

Tel: +27 (0)12 804 8038  
Fax: +27 (0)12 804 0669

E-mail: [info@netelek.co.za](mailto:info@netelek.co.za)  
Web site: <http://www.netelek.co.za>



Netelek (Pty) Ltd. Reg. No. 1991/005335/07  
Directors: CF Bosch, WF Viljoen  
Company Secretary: JC Bosch



communicate with any registered Credit Bureau to obtain any information regarding his/her payment behaviour, credit worthiness or defaults and is advised that the Company may forward to any registered Credit Bureau information relating to how the Customer has performed in meeting his/her

obligations and record with such Credit Bureau any non-performance with the Customer's obligations under this Agreement.

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PO Box 73130  
Lynnwood Ridge 0040

**Netelek (Pty Ltd)**  
Reg. No. 1991/005335/01

Tel: (021) 860 0800

**FOR OFFICE USE ONLY**

ACCOUNT NUMBER:	CREDIT LIMIT:	DATE APPROVED:
SPECIAL CONDITIONS:	ACCOUNT EXECUTIVE:	TERMS OF PAYMENT: Cash/...Days / ...

**Credit Application / Customer Registration**

Netelek will not be able to consider this application unless fully completed in every respect. Please note that our *Standard Trading Conditions* are attached to this form and that all business undertaken by us is exclusively on the basis that our *Standard Trading Conditions* shall always apply.

**A. BUSINESS DETAILS**

- Are you a Company  Close Corporation  Partnership  OR a Sole Proprietorship
- Full name of business: \_\_\_\_\_
- Under what name should we open your account: \_\_\_\_\_
- Under what name do you trade: \_\_\_\_\_
- Company / Close Corporation registration number: \_\_\_\_\_
- Authorized person to sign for orders on our behalf: \_\_\_\_\_
- Amount of credit required: \_\_\_\_\_

POSTAL ADDRESS:			
PHYSICAL ADDRESS:			
DATE BUSINESS COMMENCED:		NATURE OF BUSINESS:	
FAX NUMBER:		TAX REFERENCE NUMBER:	
TELEPHONE NO:		VAT REGISTRATION NUMBER:	
E-MAIL ADDRESS:		CUSTOMS CODE NO:	
AUDITOR DETAILS-	Name: _____		
BANK DETAILS -	Address: _____		
TRADE REFERENCES -	Bank:	Branch code:	Acc.no:
1)	Name: _____		Tel. no: _____
2)	Name: _____		Tel. no: _____
3)	Name: _____		Tel. no: _____

**B. APPLICANT'S PERSONAL DETAILS**

Details of directors / others:	1)	2)	3)
Name:			
Identity number:			
Capacity (e.g. Director):			
Home telephone number:			
Home Address:			

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**C. STANDARD TERMS AND CONDITIONS OF TRADE**

The Customer hereby warrants that it has taken cognizance of the *Standard Terms and Conditions of Trade* and agrees to abide by them.

Signed at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
**For the Customer**  
*Duly authorized*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Witness: 1) \_\_\_\_\_

Name: \_\_\_\_\_

Witness: 2) \_\_\_\_\_

Name: \_\_\_\_\_

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