



Trillobate Marketing

Registration Number: 2010/101865/23

P O Box 5026 Rivonia 2128

SUPPLIER TERMS & CONDITIONS

By supplying the Corporation with products or services, the Supplier accepts all of these terms and conditions ("T&C").

1. **Definitions**

"Agreement" means the agreement established by these T&C, and any other terms and conditions relating to the supply relationship between the parties, which are agreed to by both parties and reduced to writing, notwithstanding any other written provisions to the contrary which may appear on any other documentation issued by the supplier.

"Confidential Information" means any commercially sensitive information provided by the Corporation to the Supplier, including but not limited to business, customers, contracts, systems, customer ordering and business software, product costs and pricing and generally any information generated during and as a result of the Agreement, but does not include information or knowledge which is already publically known or which subsequently becomes publically known other than as a direct or indirect result of a breach of the Agreement, or information and knowledge which is required to be disclosed by law.

"Corporation" means Trillobate Marketing CC (Registration number: 2010/101865/23).

"Products" means goods supplied by the Supplier and ordered by the Corporation from the Supplier from time to time.

"Services" means the services which the Supplier will provide to the Corporation. These services are ancillary to the supply of the Products, as may be request by the Corporation from time to time.

"Supplier" means any company, person or website which provides Products or Services to the Corporation

2. The Law governing the Agreement will the Law of the Republic of South Africa.

3. The Agreement is non-exclusive. The Corporation may engage with any other business, provider, person, website to provide any whether different or of a similar nature to the products and/or services supplied by the Supplier, from time to time.

4. The Agreement does not oblige the Corporation to order any products from the Supplier. A binding contract for the supply of Products only comes into existence where the Supplier receives a purchase order from a duly authorised representative of the Corporation. The Supplier is deemed to have accepted the purchase order if it does not reject the order within 12 hours of having received it.

5. The Agreement in no way implies a principal/agent; employer/employee; joint venture; partnership or other relationship between the Corporation and the Supplier. The relationship between the Corporation and the Supplier is that of Buyer and Seller.

6. The Corporation will pay invoices within 30 days of the end of the month in which the invoice is received (or such other period as may be agreed to between the parties in writing), provided that the invoice is properly rendered and complies with the Corporation's purchase order. Should the Corporation dispute any part of an invoice, they may withhold payment until such dispute has been resolved. An invoice will be correctly rendered if:-

a. The total amount on the invoice is correctly calculated, taking into account correct unit prices of the Products and is otherwise due for payment;

b. The invoice is set out in such a manner that the Corporation is able to establish Products and/or services to which the invoice relates;

c. The invoice is supplemented with (where necessary or where requested by the Corporation) by verifying documentation;

d. The invoice is addressed to the address chosen by the Corporation for delivery of invoices, from time to time;

e. The invoice includes the Corporation's order number; delivery note number; any discounts, where applicable; and the payment terms in accordance with these T&C.

7. The Supplier warrants that all Products supplied in under these T&C:

a. Comply with the description given by the Supplier;

b. Comply with the specifications and quantities stated in the relevant purchase order as well as with any samples which may have been provided by the Supplier to the Corporation, and that they otherwise meet the requirements of the purchase order;

c. Is consistent with any sample provided in quality;

d. Are free from defects in workmanship and materials, are of sellable quality and are fit for the purpose and use for which they are required;

e. Are the property of the Supplier and the Supplier is entitled to sell the Products.

8. The Supplier warrants that:

a. It will provide the Products and Services at all reasonable times exercising due care, skill and diligence and in a proper manner in accordance with the Corporation's requirements.

b. It will provide the Products and Services within the time frames contained in these T&C or as otherwise specified by the Corporation;

c. It has the resources, skill, competence, experience, expertise, knowledge and ability necessary to supply the Products and Services in terms of these T&C

d. It will ensure that no act or omission of the Supplier may cause prejudice or harm to the Corporation.

9. In the event of a breach of any one of clauses 7, 8 or 9, and without limiting any rights or remedies which would ordinarily be available to the Corporation, the Supplier will, at the request of the Corporation replace any defective Product, alternatively should such Product be sold out, then the Supplier will refund to the Corporation the full purchase price of such defective Product, without charging any administration or cancellation fees. The Supplier will be responsible for having the defective Product returned to it.
10. The Supplier will be liable for and will indemnify the Corporation against all losses, damages and costs arising, sustained or incurred by the Corporation as a result of the Products not complying with the warranties set out in clauses 7, 8 or 9. The liability of the Supplier in this clause 9 shall not be affected by the Corporation's failure to inspect defective products upon or after delivery or any failure by the Corporation to detect or discover the defect.
11. Without limiting the generality of clause 9, should any Product fail to comply with the warranties set out in clauses 7, 8 or 9 and this necessitates a recall of any Product by anyone, the Supplier shall indemnify and hold harmless the Corporation, its successors in title, assigns, customers and the users of the Products against all actions, claims, demands, expenses, costs and liabilities incurred or arising as a consequence of any such recall, and without limiting the generality of the foregoing, the Supplier shall reimburse the Corporation for all costs and expenses incurred by the Corporation whether directly or indirectly as a result of or in connection with such recall, on demand by the Corporation.
12. Delivery: The Supplier must arrange for delivery at their cost to the nominated warehouse of the Corporation.
13. Delivery shall be effected within 2 – 3 working days of receipt of the Corporation's purchase order.
14. The Corporation may change delivery schedules or delivery dates as specified in the purchase order. The Supplier acknowledges that time is of the essence in delivering the Product.
15. Without prejudice to any rights of rejection the Corporation may have, and subject to clause 8, risk in and title to the Products will pass to the Corporation upon the Product being off-loaded at and accepted by the Corporation at the address given for delivery.
16. The Corporation may cancel any order wholly or in part, prior to delivery of such purchase order without incurring any penalty or cancellation fee.
17. The Supplier undertakes and agrees not to, without prior written consent from the Corporation:
 - a. Disclose or permit the disclosure of the Confidential Information to any person, business or website;
 - b. Use or permit the use of the Confidential Information to compete with the Corporation or in any manner which may injure or cause loss to the Corporation.
18. The Supplier indemnifies the Corporation against any action, suit, claim, demand, cost or expense arising out –
 - a. Any breach of these T&C or any warranty herein provided by the Supplier;
 - b. Any infringement or alleged infringement by the Products or services for any materials and information provided by the Supplier under these T&C of a third party's intellectual property rights;
 - c. Any damage, injury or loss caused by or resulting from any act or omission of the Supplier;
 - d. Any loss, injury or damage sustained by any officer, employee, agent or supplier of the Supplier incurred whilst performing obligations under these T&C.
19. The Agreement may be terminated by the Corporation at any time in its discretion on 30 days notice to the Supplier. The Supplier will have no claim against the Corporation for damages or loss of profits arising out of or relating to the termination of the agreement by the Corporation.
20. The Corporation may terminate the Agreement at any time, without prejudice to any right of action or remedy which has accrued to it or thereafter accrues to it, if the Supplier:
 - a. The Supplier is in breach of any of the terms of the agreement;
 - b. The Supplier is liquidated or is in the opinion of the Corporation in such financial circumstances as to prejudice the proper performance of the Agreement.
21. Termination of the agreement as contained in clause 18 is in addition to any other remedy which is available to the Corporation.
22. Failure or omission by the Company at any time to enforce or require strict or timeous compliance with any provision of these T&C will not affect the remedies available to the Corporation to in respect of breach of the agreement.
23. The Corporation may set off or deduct from any amount due and owing by it to the Supplier any amounts which the Corporation, in good faith, believes are due and owing by the Supplier to the Corporation. Prior to such set off or deduction, an authorised representative of the Corporation will attempt in good faith to resolve the issue relating to the set off or deduction with the Supplier.
24. Any disputes in regard to these T&C must first be negotiated in good faith between the parties with a view to settling any dispute or claim arising out of or in relation to the Agreement. Should the parties agree that such negotiations have failed, then the dispute or claim may be referred to arbitration. The dispute will be arbitrated upon in terms of the Expedited Rules of the Arbitration Foundation. An arbitrator shall be mutually agreed upon between the parties, however should an *impasse* arise as to the appointment of an arbitrator, the Arbitration Foundation will appoint an arbitrator upon being requested by the parties.
25. The parties consent to receive any notice, demand, communication in writing at the following addresses:-
 - a. The Corporation - 401 Main Avenue, Ferndale, Randburg
 - b. The Supplier - _____The parties may change their address herein contained by giving the other party written notice of such change of address.
26. This Agreement constitutes the sole agreement between the parties for the provision of goods and no representation not contained herein shall be of force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both parties. No purported amendments to these T&C, included in invoices and delivery notes will be of any force or effect.

I, _____ do hereby certify that I am duly authorised to sign these terms and conditions on behalf of the Supplier and it is recorded that I agree to these terms and conditions and it is agreed that the Applicant will be bound by these Terms and Conditions.

SIGNED

COMPANY STAMP

DESIGNATION

NAME

DATE AND PLACE
