

TERMS AND CONDITIONS OF SALE

1. Any order resulting here from shall be subject to the conditions stated herein unless specifically varied by the creditor in writing, and these conditions shall at all times take precedence over any terms, conditions or stipulations contained in any of the debtor's documentation as may be in conflict herewith. Should the debtor in any way purport to attach any conditions which vary, amend or are in conflict with the conditions set forth herein, then notwithstanding anything to the contrary stipulated by the debtor, the conditions set forth herein shall prevail and be of full force and effect unless specifically varied by the creditor in writing with specific reference to the debtor's contrary documentation.
2. The debtor acknowledges that credit facilities granted are payable within thirty ((30) days from date of statement, which date shall be deemed to be the last day of every month.
3. Credit facilities may be withdrawn by the creditor at any time without prior notice, and the creditors reserves the right to review the extent, nature and duration of such facilities at all times.
4. If any amount is not paid within the agreed term the debtor shall be liable for interest at the maximum rate permitted in terms of the Usury Act, No 73 of 1968, as amended from time to time. Such interest shall be calculated and paid monthly in advance, provided that if the interest is not paid as aforesaid, the interest shall be added to the principal sum and the whole amount shall form the principal debt which shall bear interest as aforesaid.
5. The signatory hereto binds himself as surety and co-principal debtor in solider with the debtor in favour of the creditor for the due payment of all amounts which may at any time be payable by the debtor to the creditor from any cause of action whatsoever and whether acquired by the creditor by way of cession or otherwise. He further waives the benefits of excussion and division and of the legal exceptions non numeratae pecuniae and non causa debiti and acknowledges himself to be full acquainted with the meaning of these terms. The terms and conditions of this application shall apply mutatis mutandis to this suretyship.
6. The suretyship is a continuing suretyship and shall remain of full force and effect notwithstanding any fluctuation in, or temporary extinction of the debtor's indebtedness to the creditor. It may not be withdrawn, revoked or cancelled by me/us without the creditor's prior written consent. Any consensual cancellation or withdrawal of this suretyship by me/us and the creditor shall only be valid and effective if reduced to writing and signed by both parties thereto.
7. A certificate under the hand of any director or manager of the creditor (whose appointment need not be proved) as to the existence and the amount of the debtor's indebtedness and the surety's indebtedness to the creditor at any time, as to the fact that such amount is due and payable, the amount of interest accrued thereon and as to any other fact, matter or thing relating to the debtor's indebtedness to the creditor and the surety's indebtedness to the creditor, shall be sufficient and satisfactory proof of the contents and the correctness thereof for the purpose of provisional sentence, summary judgment or any other proceedings of whatsoever nature against the debtor and/or the surety in any competent court and shall be valid as a liquid document for such purpose.
8. Any admission made by the debtor as to the fact that it is indebted to the creditor or as to the amount of any such indebtedness to the creditor shall be binding upon the surety.
9. Notwithstanding any other provision to the contrary, the obligation to deliver goods shall in all cases be subject to the following conditions precedent:
 - 9.2 The availability to the creditor of the goods ordered.
 - 9.3 Time shall not be of the essence of the contract and delivery dates shall be treated as approximate only based on the latest information available to the creditor. Under no circumstances shall the debtor be entitled to withdraw from or terminate the contract on account of any delay in delivery or have any claim of any nature whatsoever against the creditor arising from late delivery.
 - 9.4 The creditor shall be exempted from and shall not be liable under any circumstances whatsoever for any indirect or consequential damages of any nature whatsoever or any loss or profit or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the debtor may suffer as a result of any delay in delivery of the goods ordered.
10. Ownership in the goods sold and delivered to the debtor on account shall pass to the debtor only when all amounts due by the debtor to the creditor shall have been paid, notwithstanding delivery of the said goods to the debtor. Risk in and

to the goods shall however pass to the debtor on delivery.

11. The debtor agrees and acknowledges that in the event of:-

- 0.1 the debtor breaching any condition contained in these conditions;
- 0.2 the debtor failing to pay any amount due and payable on due date;
- 0.3 the debtor suffering any civil judgment to be taken or entered against it;
- 0.4 the debtor causing a notice of surrender of its estate to be published in terms of the Insolvency Act No 24 for 1936, as amended;
- 0.5 the debtor dying;
- 0.6 the debtor's estate being placed under any order of provisional or final sequestration, provisional or final winding up, or provisional or final judicial management, as the case may be;

then and in that event the creditor shall, without detracting from any other remedies which may be available to it, be entitled to summarily cancel the sale of any goods to the debtor without notice to the debtor, and to rely on the provisions of clause 9, and to re-possess those goods sold and delivered by the creditor to the debtor, or to claim specific performance of all the debtor's obligations whether or not such obligations would otherwise then have fallen due for performance, in either event without prejudice to the creditor's right to claim damages.

12. Should the creditor agree to accept the return of any goods for credit, the debtor shall be liable to pay the creditor a handling charge of not less than 10% on the invoiced price of the goods so returned.
13. In the event of the creditor instructing attorneys to collect from the debtor an amount owing to the creditor, the debtor agrees to pay all costs on the scale as between attorney and own client, including collection charges.
14. The debtor consents to the arbitration of a single arbitrator agreed upon between the parties, failing which appointed by the President for the time being of the KwaZulu-Natal Law Society or his nominee or successor, and the decision of the arbitrator on such dispute shall be final and binding on the parties. Such arbitration proceedings shall be conducted informally and as inexpensively and expeditiously as possible at Durban.
15. The debtor nominates as its domicilium citandi et executandi the address reflected on the face hereof under the heading registered office/business physical address, and the surety nominates as his domicilium citandi et executandi the address reflected on the face hereof alongside his name, for service upon them of all notices and processes in connection with any claim for any sum due to the creditor arising out of credit granted by the creditor to the debtor.
16. No relaxation or indulgence granted to the debtor by the creditor, at any time, shall be deemed to be a waiver of any of the creditor's rights in terms hereof, and such relaxation or indulgence shall not be deemed a novation of any of the terms and conditions set out herein, or create any estoppel against the creditor.
17. The debtor shall be liable for and undertakes to pay the stamp duty applicable to this deed.
18. It is a condition that the debtor shall be precluded from raising any complaints or disputing liability to the creditor in any way unless it shall have notified the creditor of its complaints or grounds of dispute in writing within 7 (Seven) days of receipt of the goods in question. Notwithstanding the timeous raising of a complaint or dispute of liability by the debtor, the debtor shall, under no circumstances, be entitled to withhold payment in respect of the goods from the creditor pending the resolution of such dispute or complaint. Subject to the foregoing, the creditor shall, in its discretion, be entitled to either remedy any failure by adjusting, repairing or replacing the goods in question, or refunding the whole or part (as the case may be) of the contract price paid to it by the debtor in respect of such goods.
19. Should the debtor have any complaint of whatsoever nature concerning any of the goods which are not manufactured by the creditor, it shall be entitled to require the creditor to cede to it any rights which the creditor may have against the supplier of those goods but shall have no other claim against the creditor in respect of the matter complained of. The debtor shall not be entitled to withhold payment from the creditor in respect of such goods for any reason whatsoever.

- 20. Save as otherwise specifically provided for herein, the creditor shall not be liable to the debtor or to any other person for any indirect or consequential damages of any nature whatsoever or any loss of profit or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the debtor may suffer as a result of any breach by the creditor of any of its obligations under these conditions or out of any other court whatsoever. The debtor hereby indemnifies the creditor against any claim which may be made against the creditor by any other person in respect of any matter for which the liability of the creditor's is excluded in terms of the foregoing.
- 21. Any agreement purporting to vary the terms of this agreement, or any consensual cancellation, shall not be valid unless reduced to writing and signed by both the debtor and the creditor.
- 22. In these conditions, word importing one gender shall include the other gender, and words importing the singular, shall include the plural (and vice versa).

DEED OF SURETYSHIP

By: _____ ('the SURETY')

ID Number: _____

of: _____ ("the SURETY's Address")

in favour of: _____ ("the CREDITOR")

of: _____ ("the CREDITOR'S address")

in respect of: _____ ('the PRINCIPAL DEBTOR')

In this Deed of Suretyship, unless the context clearly indicates to the contrary, the singular shall include the plural and vice versa and the masculine shall include the feminine and neuter genders, as the case may be.

2. The Surety hereby binds himself, jointly and severally with the Debtor, to the Creditor as Surety and Co-principal Debtor with the Debtor for:
 - 2.1 the due and punctual payment by the Debtor of all monies of whatsoever nature which may become due and owing from time to time by the Debtor to the Creditor arising from any cause of whatsoever nature;
 - 2.2 the due and proper performance by the Debtor of all the Debtor's obligations to the Creditor of any nature whatsoever which the Debtor may now or in the future be obliged to perform;
 - 2.3 the payment of all charges and expenses of whatever nature including, without derogating from the generality of the foregoing:-
 - 2.3.1 any cost incurred by the Creditor in obtaining a sworn valuation of any equipment being the subject of any agreement between the Creditor and the debtor;
 - 2.3.2 all attorney and client costs which the Creditor may incur in enforcing its rights against the debtor including, without derogating from the generality of the foregoing, all collection commission, tracing charges and disbursements made by the Creditor;
 - 2.3.3 interest on any amount which is due or may become due and owing from time to time by the Debtor to the creditor calculated at 1% (ONE PERCENTUM) above prime bank overdraft rate from time to time from the date upon which such amount became due and owing to date of payment thereof.
3. This Deed of Suretyship is subject to the following terms and conditions:
 - 3.1 The same shall operate as a continuing covering security for any present or future indebtedness of the Debtor to the Creditor and shall remain of full force and effect notwithstanding any fluctuation in, or even temporary extinction of, such indebtedness;
 - 3.2 The liability of the Surety shall in no way be affected if the Creditor, either now or in the future, obtains additional Suretyships, Guarantees or Securities, whether real or personal, in respect of the indebtedness or the obligations of the Debtor from time to time;
 - 3.3 This Deed of Suretyship shall be valid in respect of the Creditor as well as any successor in title, order or assign of the creditor;
 - 3.4 The Creditor shall be entitled, without reference or notification to the Surety and without affecting the Surety's obligations under this Deed of Suretyship or the Creditor's rights thereunder, and without releasing the Surety, to take whatever steps it deems fit against the Debtor and, without derogating from the generality of the foregoing, the Creditor shall be entitled:-
 - 3.4.1 to release any other Surety or to waive any of its rights under any Security without prejudice to its rights under this Deed of Suretyship;
 - 3.4.2 to grant the Debtor extensions of time for payment or to compound or make any other arrangements with the Debtor for the discharge of the Debtor's indebtedness or the performance of any obligation by the Debtor;
 - 3.5 Any written Acknowledgement of Debt signed by the Debtor shall be bind on the Surety and this Deed of Suretyship shall be deemed to cover any indebtedness recorded in such Acknowledgement of Debt;
 - 3.6 This Deed of Suretyship cannot be revoked, cancelled or altered without the written consent of the Creditor having been obtained;
 - 3.7 The Creditor shall have the right to appropriate any monies received from the Surety to such indebtedness of the Debtor to the Creditor may in its sole discretion determine;
 - 3.8 Should the Creditor cede its claim against the Debtor to any third party, then this Deed of Suretyship shall be deemed to have been given in favour of such third party by the Surety and the third party shall have all the Creditor's rights under this Deed of Suretyship against the Surety;
 - 3.9 In the event of the Debtor being placed under either provisional or final liquidation or judicial management or in the event of the Debtor's estate being sequestrated either provisionally or finally;
 - 3.9.1 the Surety undertakes not to prove a claim against the Debtor's estate for any amount whatsoever until all amounts owing by the Debtor to the Creditor have been paid in full and in the event of any excess existing thereafter;

3.9.2 the Creditor shall be entitled to accept any dividend on account and in reduction of the Debtor's indebtedness without prejudice to its rights against the Surety under this Deed of Suretyship, which rights shall further not be prejudiced by the Creditor's acceptance of any other Securities, Guarantees or Suretyships arising out of such liquidation, judicial management or sequestration or by the acceptance by the Creditor of any offer of compromise made by or on behalf of the Debtor, whether the Debtor is then in liquidation or under judicial management or whether the Debtor's estate has been sequestered or otherwise.

3.10 The Surety, or each surety, should there be more than one, shall be individually and separately bound, regardless of the failure of any other person to sign the Suretyship as surety, as contemplated, intended or agreed.

4. This Deed of Suretyship shall be subject to the following further terms and conditions:

4.1 A certificate under the hand of any Director or duly authorised employee of the Creditor as to the existence and amount of any obligation or indebtedness of the Debtor to the Creditor and of the Surety to the Creditor at any time, including any amount in respect of attorney and client costs, collection commission, tracing agent charges and interest, or any matter or thing relating to the indebtedness of the Debtor and the Surety to the Creditor, shall be prima facie proof of the facts contained therein and it shall furthermore, by agreement constitute a valid liquid document for the purposes of provisional sentence of judgement. The surety agrees that it shall not be necessary to prove the appointment of the person authorised by the creditor to sign such certificate.

4.2 The Surety and the Creditor, the latter by its signature to this Deed of Suretyship, hereby consent to the jurisdiction of any Magistrate's Court having jurisdiction over their respective persons under Section 28 of the Magistrate's Courts Act Number 32 of 1944 (as amended). Such consent:-

4.2.1 is furnished pursuant to Section 45 of the said Act and is furnished notwithstanding that any action or proceeding arising out of this Deed of Suretyship would otherwise be beyond the jurisdiction of such Court;

4.2.2 is subject to the express condition that the Creditor shall be entitled, in its sole and absolute discretion, to proceed in any higher Court of competent jurisdiction should the Creditor so desire;

4.2.3 shall, to the extent that the Surety is a company, bind personally the person signing this Deed of Suretyship on behalf of such company to the Creditor jointly and severally with the said company, for the company's obligations under this Deed of Suretyship on the same terms and conditions as contained in this Deed of Suretyship and, furthermore, such person warrants by his signature of this Deed of Suretyship that he is duly authorised to represent such company and execute this Deed of Suretyship on behalf of such company.

5. The surety hereby renounces the benefits of the legal exceptions "non cause debit", "errore calculi" "excussio" "division", "de duobus vel pluribus reis debendi" "no value received" and "revision of accounts". The Surety acknowledges that he is fully acquainted with the meaning and effect of all of the abovementioned legal exceptions and that renunciation of the benefits of these exceptions as based upon full knowledge and understanding of the meaning of such exceptions and the consequences of renunciation of the benefits thereof.

6. No extension of time, acceptance of late payment or any other indulgence granted by the Creditor to the Surety shall be construed as a waiver of any of the Creditor's rights in terms of this Deed of Suretyship.

7. The Surety selects the address set out hereunder as his domicilium citandi et executandi under this Deed of Suretyship:

8. Any notice or letter which is sent by the Surety to the Creditor or vice versa pursuant to this Deed of Suretyship shall be deemed to have been received by the recipient on the day but one following upon the posting of such letter provided that the same is posted by pre-paid registered post.

9. The surety undertakes to inform the Creditor in writing of any change in his domicilium citandi et executandi.

10. The costs of this Deed of Suretyship including the stamp duty payable thereupon shall be borne by the Creditor.

DATED AT _____ ON THIS THE _____ DAY OF _____ 2009

SIGNATURE (SURETY)

AS WITNESSES:

1. _____

2. _____