

TERMS AND CONDITIONS OF QUOTATION & SALE

1. INTRODUCTION

- 1.1 Your attention is drawn to these Terms and Conditions because they are important and should be carefully noted.
- 1.2 If there is any provision in these Terms and Conditions that you do not understand, it is your responsibility to ask the SUPPLIER to explain it to you before you accept the Terms and Conditions or continue using the Website.
- 1.3 Nothing in these Terms and Conditions is intended or must be understood to unlawfully restrict, limit or avoid any right or obligation, as the case may be, created for either you or the SUPPLIER in terms of the CPA.
- 1.4 The SUPPLIER permits the use of this Website subject to the Terms and Conditions. By using this Website in any way, you shall be deemed to have accepted all the Terms and Conditions unconditionally. You must not use this Website or purchase Goods/Products from the SUPPLIER if you do not agree to the Terms and Conditions.
- 1.5 The SUPPLIER website can be accessed at <https://kingbrands.co.za/>(the "Website") and is owned and operated by King Trelis (Pty) Ltd.
- 1.6 These Website Terms and Conditions govern the ordering, sale and delivery of Goods/Products, and the use of the Website.
- 1.7 THESE TERMS AND CONDITIONS ARE BINDING AND ENFORCEABLE AGAINST EVERY PERSON THAT PURCHASES GOODS/PRODUCTS FROM THE SUPPLIER AND/OR ANY OF ITS REPRESENTATIVES WHO ACCESSES OR USES THIS WEBSITE. BY MAKING PAYMENT, ACCEPTING A QUOTATION, OR USING THE WEBSITE AND MAKING PAYMENT, AS MAY BE APPLICABLE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

2. DEFINITIONS:

- In this Agreement, unless the context requires otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have a corresponding meaning, namely: -
- 2.1.1 **"Agreement"** means these terms and conditions of Quotation and Sale and all annexures and addendums incorporated herein, which shall together be regulated by South African law.
 - 2.1.2 **"CLIENT"** means any person, whether natural or juristic, who wishes to do business with the SUPPLIER and/or to purchase any of the SUPPLIER's Goods/Products or Services
 - 2.1.3 **"Fees"** means the amounts recorded in the Quotation and as agreed to between the Parties;
 - 2.1.4 **"Goods/Products"** means all Goods and or Products purchased from the SUPPLIER by the CLIENT;
 - 2.1.5 **"Insolvency Proceedings"** means, in relation to a Party, any action, proceedings or steps commenced in respect of such a Party for:
 - 2.1.5.1 the sequestration, winding-up, liquidation, compromise, placing in curatorship, placing under administration, dissolution or deregistration of the Party or any of its assets in each case whether compulsorily or voluntarily, provisionally or finally; or
 - 2.1.5.2 the appointment of any receiver, liquidation, curator, administrator, business rescue practitioner, trustee or similar officer in respect of the Party or any or all of its assets or revenues in accordance with applicable law, whether on a temporary or permanent basis; or
 - 2.1.5.3 the calling of a meeting in order to propose a resolution, the passing of a resolution, or the making of an application, or an order is applied for or an order is granted, in each instance, to authorise the implementation of any business rescue proceedings in respect of the Party or its assets.
 - 2.1.6 **"Installation"** means the SUPPLIER's personnel attending at the CLIENT's nominated Premises to effect the delivery and/or installation of Goods/Products as agreed between the Parties;
 - 2.1.7 **"Month"** means a calendar month;
 - 2.1.8 **"Party"** means any one of the Parties to this Agreement. The term "Parties" shall have a corresponding meaning;
 - 2.1.9 **"Premises"** means the physical address recorded in each Quotation where the Goods/Products will be delivered and/or the services will be carried out;
 - 2.1.10 **"POD"** means Proof of Delivery;
 - 2.1.11 **"Quotation"** means the estimated cost of the Goods/Products to be delivered and/or services to be carried out.
 - 2.1.12 **"Services"** means the delivery, installation and maintenance of the SUPPLIER's Goods/Products;
 - 2.1.13 **"SUPPLIER"** means the King Brands Company manufacturing, selling, delivering or installing the Goods/Products and/or Services to the CLIENT.

3. QUOTATIONS

- 3.1 It is recorded that the only basis upon which the SUPPLIER is prepared to do business with the CLIENT is that, notwithstanding anything in the CLIENT'S enquiry, specification, acceptance, order or other documentation or any other documentation or discussion/s to the contrary, the terms and conditions contained in this agreement shall operate in respect of any and all business between the Parties.
- 3.2 Any quotation given is not an offer by the SUPPLIER to sell, repair or install the Goods/Products but constitutes an invitation by the SUPPLIER to the CLIENT to do business with the SUPPLIER.
- 3.3 A quotation may be revoked at any time by the SUPPLIER and the SUPPLIER may accept or reject in whole or in part any order placed upon it by the CLIENT pursuant to the quotation. Accordingly, an agreement shall only come into force between the SUPPLIER and the CLIENT if after receipt by the SUPPLIER of the CLIENT'S order or acceptance of the quotation and a non-refundable 50% (Fifty percent) payment of the full Fees of the Quotation is made, the SUPPLIER confirms to the CLIENT that such an Agreement has been concluded by providing the CLIENT with an invoice, purchase order or if the SUPPLIER supplies, or tenders to supply, the Goods/Products in question to the CLIENT.
- 3.4 Unless otherwise specified in a Quotation, in the event of any conflict between any Quotation and this Agreement, this Agreement shall take precedence to the extent of any such conflict.

4. PRICE AND PAYMENT OF FEES

- 4.1 The prices for the Goods/Products shall be as contained in the price list of the SUPPLIER, subject to change from time to time by the SUPPLIER. The SUPPLIER reserves the right to vary prices at any time but will endeavour to provide 1 (one) week notice of any price increase to the CLIENT. Where applicable the price shall be inclusive of costs of storage, delivery, handling, transport, insurance or any other fees, costs, charges or expenses incurred by the SUPPLIER in connection with the supply and delivery of the products.
- 4.2 Where applicable promotional orders will be supplied at the pre-agreed prices. back orders will be supplied at the prices current at the order date as reflected on the SUPPLIER'S invoice or purchase order.
- 4.3 The CLIENT shall pay the SUPPLIER the remainder of the Fees free of charge, without set-off or deduction of the amounts set out in the invoices or purchase order plus VAT on or before date of delivery.
- 4.4 The SUPPLIER reserves the right to charge interest on all overdue accounts at the prime overdraft rate charged from time to time, plus 1.5% over and above such rate, calculated from the due date of payment of such arrear amount to the date of actual payment thereof, both dates inclusive.
- 4.5 In the event that any tax or costs are imposed on any supply made under or in accordance with this Agreement by government or any regulatory body, the CLIENT shall be responsible for payment of such costs or taxes and the SUPPLIER may include such amount in the tax invoice payable by the CLIENT.
- 4.6 All payments shall be made to the SUPPLIER by Electronic Funds Transfer (EFT) into the SUPPLIER'S designated bank account stipulated on the invoice. The onus resides on the CLIENT to verify any change of the SUPPLIER'S banking details, consequently the SUPPLIER shall not be responsible for fraudulent changes to bank details that have not been verified by the CLIENT and the SUPPLIER is hereby indemnified against any resultant losses or damages.
- 4.7 Payment terms and credit limits shall at all times remain at the sole, discretion of the SUPPLIER, who may alter or withdraw same at any time.

5. DELIVERY AND INSTALLATIONS

- 5.1 The SUPPLIER shall deliver the Goods/Products and the Services to the CLIENT at the premises nominated by the CLIENT in the order.
- 5.2 Goods/Products shall be deemed to be delivered once the SUPPLIER places the CLIENT or its authorised agent in possession of the Goods/Products. A signed delivery note shall constitute prima facie proof that the Goods/Products have been delivered and received by the CLIENT in good condition, whether signed by the Applicant, an employee, an agent or representative thereof.
- 5.3 The SUPPLIER will endeavour to deliver on the delivery dates set out in the quotation or order, however, such dates shall be construed as estimated dates and the SUPPLIER shall not be bound to effect delivery on or near such dates. Consequently, the CLIENT indemnifies the SUPPLIER against all losses and liabilities of whatsoever nature and howsoever arising pursuant to the failure by the SUPPLIER to deliver on dates set out in the quotation or order, whether due to the SUPPLIER'S fault or otherwise.
- 5.4 This agreement allows for return travel charges up to 120km, thereafter the SUPPLIER will charge the CLIENT per kilometre.
- 5.5 The Parties agree that the SUPPLIER may from time to time include further conditions, that specifically regulates the returns of Goods/Products, subject to mutual Agreement in writing between the parties and the CLIENT shall be

- bound to such conditions of return of goods where applicable, subject to the provisions of clause 22.1.
- 5.6 The CLIENT shall be liable for the costs of return(s) of goods, including any handling fees that may apply for any and all returns not authorised by the SUPPLIER.
- 5.7 If the SUPPLIER or its personnel cannot deliver and install the Goods/Products to the Premises, through no fault of the SUPPLIER, the CLIENT shall be obliged to pay all reasonable costs incurred by the SUPPLIER in making the attempted delivery and Installation.
- 5.8 Whilst all reasonable precautions shall be taken to install the Goods/Products, the SUPPLIER will not be liable for any loss or damage of whatsoever nature suffered by the CLIENT in the event of damage occurring to the surface or underground mountings such as, but not limited to, doors, door frames, windows, glass panes, decorative features, telephone, electrical, network or intercom cables, irrigation systems, water pipes, gas pipes or any other pipes, cables or fixtures of whatsoever nature that may be encountered by the SUPPLIER during installation.
- 5.9 Unless the CLIENT proves otherwise and without limiting the rights of the customer pursuant to the CPA, if applicable, signature by the CLIENT on any POD or acceptance certificate provided by the SUPPLIER and/or its personnel upon the installation of the Goods/Products or upon delivery of the Goods/Products, shall be deemed to be an acknowledgement by the CLIENT that it has fully inspected and approved the Goods/Products and all of its components and that the Goods/Products have been received and installed to the full satisfaction of the CLIENT.
- 5.10 The CLIENT acknowledges and undertakes that it shall:-
- 5.10.1 provide all requisite power for the installation of the Goods/Products;
- 5.10.2 ensure that all installation areas are levelled, cleared and free of all obstructions and vegetation;
- 5.10.3 provide an electrical power point within at least 5 metres of the position to which the equipment is to be installed and connected.
- 5.11 The CLIENT warrants and undertakes that all electrical points to which the equipment is to be connected is properly earthed and has adequate lightning and power surge protection.
- 5.12 The SUPPLIER shall deliver and install the Goods/Products in the positions agreed upon in writing with the CLIENT prior to installation.
- 5.13 When the CLIENT has specific requirements in respect of the positioning or location of Goods/Products, those positioning or location requirements shall be presented to the SUPPLIER prior to the commencement of installation. Any repositioning or location of the Goods/Products during or after the installation of the Goods/Products shall be subject to an additional charge.
- 5.14 If the CLIENT cancels or fails to adhere to the confirmed installation date and time, then a call out Fee shall be imposed. The call out fee and total remaining Fee for the Goods/Products ordered must be paid before a new installation date and time can be scheduled.
- 6. DAMAGED OR DEFECTIVE GOODS**
- 6.1 Subject to the provisions of clause 22.1, the SUPPLIER shall under no circumstances be liable for any defective goods including Goods/Products that do not comply with agreed specifications once delivered to the CLIENT or its authorised agent and receipt by signing of the POD, unless written notice thereof is received by the SUPPLIER within 7 (seven) days of date of delivery of the Goods/Products.
- 6.2 The SUPPLIER shall at its discretion and at its expense replace all damaged or defective Goods/Products supplied to the CLIENT, provided that such Goods/Products have not been damaged or become defective due to the fault of the CLIENT.
- 7. OWNERSHIP AND RISK**
- 7.1 Ownership of the Goods/Products shall remain vested in the SUPPLIER, until the SUPPLIER has received payment of the full Fees.
- 7.2 The risk in the Goods/Products shall pass to the CLIENT upon delivery of the Goods/Products at the CLIENT's Premises.
- 7.3 The SUPPLIER shall have the right to remove Goods/Products should payment not be received timeously, without prejudice to any other right or remedy available to the SUPPLIER as set out in terms of this Agreement or in terms of common law.
- 8. NON-SOLICITATION**
- 8.1 The CLIENT agrees and undertakes that the CLIENT shall not offer employment to, or employ, whether directly or indirectly, any of the SUPPLIER'S personnel. Indirectly shall mean, inter alia, by the utilisation of the CLIENT'S subsidiaries or holding companies or the like.
- 8.2 Should the CLIENT employ any of the SUPPLIER'S personnel in breach of clause 8.1 then the CLIENT agrees and undertakes to pay the SUPPLIER, an amount equivalent to 33.3% of the annual salary of such personnel as agreed liquidated damages.
- 9. CLIENT'S AUTHORITY AND CLAIMS FOR DAMAGES**
- 9.1 THE SUPPLIER AND ITS PERSONNEL SHALL NOT BE LIABLE TO THE CLIENT OR ANY THIRD PARTY FOR DEATH OF, INJURY TO, ILLNESS SUSTAINED BY ANY PERSON (HEREINAFTER REFERRED TO AS "INJURY"), LOSS OF, OR DAMAGE TO, ASSETS, (HEREINAFTER REFERRED TO AS "DAMAGE"), WHETHER DIRECT OR CONSEQUENTIAL AND HOWSOEVER CAUSED. THE CLIENT HEREBY INDEMNIFIES AND HOLDS THE SUPPLIER AND ITS PERSONNEL HARMLESS IN RESPECT OF ALL CLAIMS ARISING OUT OF SUCH INJURY OR DAMAGE CAUSED BY THE SUPPLIER AND ITS PERSONNEL IN THE BONA FIDE CARRYING OUT OF THEIR OBLIGATIONS UNDER THIS AGREEMENT
- 9.2 If the CLIENT or any other third party contributes to any damages or loss in any way, the liability of the SUPPLIER shall be proportionately reduced.
- 10. WARRANTIES AND EXCLUSIONS**
- 10.1 The SUPPLIER shall endeavor to ensure that the Goods/Products supplied by it and/or the services rendered is in accordance with the Agreement and is otherwise correct in terms of the CLIENT'S requirements. Subject to any warranties that may be implied by the CPA, to the extent that the CPA is applicable to this Agreement, the SUPPLIER does not, however, make any representations nor, unless expressly given in writing, give any warranty or guarantee of any nature whatsoever, whether express or implied, in respect of the services or the Goods/Products including, but not limited to, implied warranties of merchantability and fitness or suitability for any intended purpose.
- 10.2 Any damage, defect or failure of the Goods/Products and/or services occasioned by force majeure shall not be covered by the warranties.
- 10.3 All warranties shall be void where a CLIENT has subjected the Goods/products to misuse or abuse.
- 10.4 All warranties shall not apply to ordinary wear and tear, having regard to the circumstances in which the Goods/Products are intended to ordinarily be used.
- 11. CANCELLATION**
- 11.1 In the event of cancellation of the agreement by the CLIENT, it is acknowledged and accepted by the CLIENT that a cancellation fee equal to 15% (fifteen percent) of the total Fees will be levied to offset administrative costs and any deposits already paid shall be forfeited.
- 11.2 Should the Goods/products be made to specifications for the CLIENT and are so unique that they were not able to be sold on the open market then the CLIENT shall be liable for the full expenses incurred by the SUPPLIER to fulfil the CLIENT'S order up to date of cancellation.
- 11.3 Where delivery has already taken place, the CLIENT shall be liable for all Goods/Products, whether the installation has commenced or not, and notwithstanding the 15% cancellation fee, for which the CLIENT is in addition liable for.
- 11.4 Should installation have commenced at the time of cancellation, the CLIENT will be liable for 100% (one hundred percent) of all labour and installation materials, notwithstanding the 15% (fifteen percent) cancellation fee, for which the CLIENT is in addition liable for.
- 11.5 All cancellation fees are cumulative and shall be payable to the SUPPLIER on demand.
- 12. NOTICES**
- 12.1 The parties hereby choose as their respective physical address and email address for service of notices for any purpose arising from or relating to this Agreement the physical and e-mail address as recorded in the Quotation.
- 12.2 A party giving notice under this Agreement must do so in writing per email or hand delivered in accordance with the applicable address as specified in the Quotation.
- 12.3 The notice as per clause 12.1, is deemed to be received:
- 12.3.1 On the date of delivery, if hand delivered; or
- 12.3.2 The next business day following the date the email is sent, if sent via email and the sender's email does not receive a delivery failure notification
- 12.4 Either party shall be entitled from time to time, by giving written notice to the other, to vary its physical or email address to any other respective address. Such variation shall only be effective 5 (five) days post receipt of the notice.
- 12.5 Each Party is obliged to inform the other Party of any variation to its respective addresses, failing which, service on the current addresses shall be deemed as sufficient.
- 12.6 This clause shall not operate to invalidate the giving or receipt of any written notice which is actually received by the Addressee other than by a method referred to in this clause.
- 13. JURISDICTION**
- This Agreement will be governed by the laws of the Republic of South Africa. The SUPPLIER and the CLIENT hereby consent to the jurisdiction of the Magistrate's Court in respect of any action or proceeding arising from this Agreement, but without prejudice to the right of the SUPPLIER to bring proceedings in the High Court where the proceedings would, but for the foregoing consent, fall outside the jurisdiction of the Magistrate's Court. In

these circumstances the SUPPLIER shall be entitled to claim and recover High Court costs.

14. FORCE MAJEURE AND STRIKES

14.1 The obligation of the Parties in terms of this Agreement shall be suspended during such time as the Parties shall be prevented from fulfilling such obligations by reason of inter alia, force majeure, strikes, riots, interference by civil or military authorities, compliance with any applicable law or regulation or any other circumstance beyond the control of the Parties.

14.2 The SUPPLIER agrees that during the continuance of events detailed in sub-clause 14.1 above, the CLIENT shall suspend payment to the SUPPLIER of the relevant part of the Fees.

14.3 If any of the events detailed in 14.1 continues for more than 31 (Thirty-One) days from the date that the event(s) first occurred, then either party shall be entitled but not obliged to terminate this Agreement, by giving not less than 14 (Fourteen) days written notice to the other. Such notice shall lapse if cessation of the event(s) occurs prior to the expiration of the said 14 (Fourteen) days' notice.

15. ENTIRE CONTRACT AND NON-VARIATION CLAUSE

The parties agree that no alteration, variation or consensual cancellation of this Agreement shall be of any force and effect unless committed to writing and signed by both CLIENT and SUPPLIER. This Agreement replaces all other agreements, terms, conditions, warranties or representations, whether oral or in writing that was made or entered into by the Parties prior to this Agreement.

16. CESSION

16.1 This Agreement shall be binding on the CLIENT'S heirs and successors of title. The CLIENT shall not be entitled to cede or transfer this Agreement to any third party without the written consent of the SUPPLIER which consent shall not be unreasonably withheld. If such consent is given to the CLIENT, the CLIENT is deemed to have bound itself as surety and co-principal debtor with the third party for the due performance by the third party of all its obligations in terms of this Agreement.

16.2 The SUPPLIER shall have the right to cede or assign to any third party at any time without consent of the CLIENT.

17. REPRESENTATION

Each Party acknowledges that no representations, warranties or guarantees of whatever nature other than those as contained in this document have been made to it by the other party or the other party agents or representatives who induced the CLIENT to enter into this Agreement or for any other purpose whatsoever.

18. WAIVER

No waiver, relaxation or indulgence afforded by either party to the other shall be deemed to be a waiver of such party's rights and such party, by due notice to the other, shall have the right at any time and from time to time to insist upon the due and punctual fulfilment of the terms and conditions of the Agreement.

19. BREACH & TERMINATION

19.1 Should either party commit a material breach of this Agreement and fail to remedy that breach within 7 (seven) days of being called upon in writing to do so, then the party giving such notice shall be entitled, without prejudice to any other rights available at Law, to cancel this agreement on due notice to the party in breach.

19.2 In the event of the CLIENT failing to pay the SUPPLIER any amount which is due in terms of this Agreement on the due date or committing any other breach of this contract and the SUPPLIER as a result thereof instructs an attorney to institute legal action against the CLIENT, the CLIENT shall be obliged to pay, and shall pay on demand to the SUPPLIER, all the legal costs occasioned thereby, including attorney and own client costs, collection charges and tracing fees.

19.3 The CLIENT shall not be entitled by reason of any claim or complaint which it may have against the SUPPLIER in terms of this Agreement or otherwise, to defer or withhold or refuse the payment of any monies due to the SUPPLIER arising from this Agreement.

19.4 Any Party shall be entitled, but not obliged, to cancel this Agreement with immediate effect by written notice if that the other Party ("the Affected Party")-

19.4.1 commences any Insolvency Proceedings or enters into business rescue; or

19.4.2 ceases or threatens to cease to carry on its normal line of business in the Republic of South Africa;

in which event cancellation shall be without prejudice to any claims which the Affected Party may have for damages against the other Party.

19.5 All gratuities, discounts and alike so afforded to the CLIENT by the SUPPLIER, from time-to-time will immediately become due and owing and payable by the CLIENT upon written demand by the SUPPLIER to the CLIENT, should the Agreement be terminated for any reasons whatsoever (save for breach by the SUPPLIER) before the Date of Delivery.

20. CONFIDENTIAL INFORMATION

20.1 All Confidential Information disclosed by one Party to the other, shall only be disclosed as is strictly necessary in accordance with the provisions of this Agreement and each Party shall procure that its personnel or third parties treat such information as confidential. Such Confidential Information shall only be used for the purpose for which it is disclosed and only insofar as it is strictly necessary for the purpose of this Agreement and shall not, without the prior written consent of the Disclosing Party, be disclosed to any third party or personnel.

20.2 Whenever the consent or authority of the Disclosing Party is required to disclose Confidential Information, the said consent or authority shall be in writing. Should the Receiving Party have been granted the necessary consent or authority, it shall only disclose the Confidential Information to its third parties or personnel who:

20.2.1 have a need to know (and then only to the extent that each such person has a need to know); and

20.2.2 are aware that the Confidential Information should be kept confidential.

20.3 The Receiving Party

20.3.1 agrees that the Confidential Information is a valuable and special asset of the Disclosing Party and belongs to such Party;

20.3.2 acknowledges and agrees that the disclosure of the Confidential Information in contravention of this clause 20 shall be in breach of the provisions of this Agreement;

20.3.3 shall perpetually hold the Confidential Information in the strictest confidence at all times;

20.3.4 shall not use the Confidential Information for its own benefit or for the benefit of its Personnel or for them to gain a competitive advantage;

20.3.5 shall employ security measures necessary to detect and/or prevent unauthorised access to and/or disclosure of the Confidential Information;

20.3.6 shall, on termination of this Agreement or on earlier demand by the Disclosing Party, cease the use of all Confidential Information and promptly return to the Disclosing Party all of the Disclosing Party's Confidential Information which is in physical form (including all copies) and shall destroy (to the extent reasonably practicable and legally permissible) any other records (including, without limitation, those in electronic, machine readable and soft copy form) as far as they contain Confidential Information.

20.4 Information shall not be deemed Confidential Information where it:

20.4.1 is authorised to be disclosed by the Disclosing Party to the extent of the authority given;

20.4.2 is in the public domain at the time of disclosure or which becomes a part of public domain after disclosure by publication or otherwise through no wrongful act of the parties;

20.4.3 has been lawfully obtained without restriction from a third party or parties who are not in breach of any obligation of non-disclosure to the Receiving Party and its Personnel;

20.4.4 is independently developed by the Receiving Party, unless it forms part of the Services that are being developed in terms of this Agreement;

20.4.5 is disclosed in accordance with the requirements of any law or legal enactment of any competent Governmental Authority or in response to the lawful order of any competent court or other lawful authority or constituted body having the legal power to require or demand such disclosure.

20.5 Any Confidential Information remains the property of the Disclosing Party. The furnishing of Confidential Information shall not result in any obligation to grant the Receiving Party rights therein, other than expressly stated in this Agreement. It is acknowledged by the Receiving Party that no license or right of use under any patent, copyright, trademark or other proprietary right is granted or conveyed by this Agreement, unless specifically regulated herein.

20.6 The Parties shall not at any time during the term of this Agreement, release any statement to the press or make any other public statement of any nature, which could reasonably be expected or anticipated to be published in any media regarding the relationship of the Parties or the subject matter of this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

20.7 The confidentiality undertakings contained herein, are in addition to and not in lieu of any other confidentiality undertakings given by the Receiving Party to the Disclosing Party.

20.8 The Receiving Party acknowledges and agrees that any breach of its obligations under this Clause 20 shall be deemed a material breach of this Agreement.

20.9 Both Parties' obligations in terms of this Clause 20, will perpetually survive the termination of this Agreement for whatever reason.

21. INTELLECTUAL PROPERTY

- 21.1 Except for the rights expressly granted under this Agreement, nothing in this Agreement will function to transfer any of either party's Intellectual Property rights to the other party, and each party will retain exclusive interest in, and ownership of, its Intellectual Property developed before this Agreement or developed outside the scope of this Agreement
- 21.2 The CLIENT is not required to provide the SUPPLIER any feedback, comments or suggestions about the SUPPLIER's Service or any of its technologies, products, or services ("**Feedback**"). However, if the CLIENT provides Feedback, CLIENT agrees that even if it is designated confidential, the Feedback is not confidential and the SUPPLIER is free to use, disclose, reproduce, license or otherwise distribute the Feedback without any obligations or restrictions of any kind, including intellectual property rights.
- 21.3 The SUPPLIER warrants that no material which is used for marketing, advertising or publishing purposes, by the SUPPLIER, will breach the copyright and other Intellectual Property Rights or other rights of or be defamatory of any party.

22. GENERAL

- 22.1 If this Agreement and/or any goods or services provided under this Agreement are regulated or subject to the provisions of the Consumer Protection Act 68 of 2008 (CPA), it is not intended that any provision of this Agreement contravenes any provision of the CPA and therefore all provisions of this Agreement must be treated as being qualified to the extent necessary to ensure that the provisions of the CPA are complied with.
- 22.2 In this Agreement, unless the context otherwise requires;
 - 22.2.1 if any provision in a definition is a substantive provision conferring rights or imposing obligations on a Party, notwithstanding that it is only in the interpretation clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;
 - 22.2.2 in this Agreement a Party includes a reference to that Party's successors in title and assigns allowed at law.
- 22.3 any reference in this Agreement to:
 - 22.3.1 "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of South Africa from time to time;
 - 22.3.2 "law" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law;
 - 22.3.3 the words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it;
 - 22.3.4 the words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a party have the same meaning;
- 22.4 words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement;
- 22.5 unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning;
- 22.6 a reference to any statutory enactment shall be construed as a reference to that enactment as at the Commencement Date and as amended or substituted from time to time;
- 22.7 unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day;
- 22.8 where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention;

- 22.9 the rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply;
 - 22.10 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
 - 22.11 no provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (stipulatio alteri) who is not a party to this Agreement;
 - 22.12 any reference in this Agreement to "this Agreement" or any other Agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.
 - 22.13 in this Agreement the words "clause" or "clauses" and "annexure" or "annexures" all refer to clauses of and annexures to this Agreement.
 - 22.14 This Agreement may be executed in any number of counterparts and all those counterparts taken together will constitute one instrument.
 - 22.15 Should any clause of this Agreement be held to be invalid, unlawful or unenforceable, such clause will be severable from the remaining terms which will continue to be valid and enforceable.
- 23. DISCLAIMER**
- 23.1 The use of the Website is entirely at your own risk and you assume full responsibility for any risk or loss resulting from use of the Website or reliance on any information on the Website.
 - 23.2 Whilst the SUPPLIER takes reasonable measures to ensure that the content of the Website is accurate and complete, the SUPPLIER makes no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website. If any such representations or warranties are made by the SUPPLIER'S representatives, the SUPPLIER shall not be bound thereby.
 - 23.3 Although Goods/Products sold from the Website may, under certain specifically defined circumstances, be under warranty, the Website itself and all information provided on the Website is provided "as is" without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, completeness, or non-infringement, as may be allowed in law.
- 24. USE OF INFORMATION**
- The CLIENT consents to the SUPPLIER sharing, transmitting and or exchanging any consumer credit information relating to the CLIENT to any other creditor, credit bureau and/or credit grantor.
- 25. PROTECTION OF PERSONAL INFORMATION**
- 25.1 The CLIENT hereby consents to the SUPPLIER processing the CLIENT'S personal data to the extent necessary to perform its obligations under this Agreement.
 - 25.2 To the extent that the SUPPLIER processes personal information for or on behalf of the CLIENT in performing its obligations under this Agreement the CLIENT must, at its cost, provide all assistance when required by the SUPPLIER to comply with the Protection of Personal Information Act 4 of 2013 ("POPIA") and other relevant legislation dealing with data protection or privacy, including:
 - 25.2.1 Assisting the SUPPLIER with responding to any requests from data subjects to access, correct or delete their personal information which is being processed by the SUPPLIER;
 - 25.2.2 Assisting the SUPPLIER with any investigation or assessment conducted, or direction given by the Information Regulator regarding the personal information processed by the SUPPLIER;
 - 25.3 The CLIENT indemnifies the SUPPLIER against any loss or damage arising out of or in connection with a breach of POPIA or any other relevant legislation dealing with data protection and privacy.
 - 25.4 The Parties agree that they have taken all appropriate and reasonable technical, organisational and security measures to keep all personal information confidential and to prevent unauthorised or unlawful loss of, access to or processing of personal information.