

TERMS AND CONDITIONS

Application

- a) These conditions shall apply to all contracts for the manufacture and/or sale of products by Alvern Cables (Pty) Ltd and its subsidiary companies (hereinafter referred to as the Seller).
- b) No terms or conditions appearing in any of the Purchaser's documents, including the Purchaser's buying order, which are at variance with these conditions, shall be binding on the Seller.
- c) No alterations or variation of these conditions shall be binding on the Seller unless recorded in writing and signed by an authorised representative of the Seller.

Price Lists

- a) Unless otherwise agreed, the price payable by the Purchaser shall be in accordance with the applicable price lists published by the Seller.
- b) Prices shall be determined with reference to the price lists in force at the date of despatch of the goods sold.
- c) The Purchaser's order is accepted on the condition that each delivery or batch of goods will be invoiced at the price ruling on the date of despatch of the goods.
- d) Prices are subjected to RCP.

Terms of Payment

- a) Payment shall be made by Purchaser to the Seller in South African currency without deduction or demand and free from bank exchange.
- b) Unless otherwise agreed in writing by Seller, payment shall be made in cash on delivery.
- c) Payment may not be withheld pending the settlement of any dispute and set off shall not apply to any amount payable by the payment of the purchaser to the Seller.
- d) If the Purchaser fails to make any payment due in terms of any agreement between the parties or commits an act of insolvency or seeks to effect a compromise or composition with his creditors or is placed under provisional or final liquidation, the Seller shall be entitled to withhold all further deliveries and to claim all amounts payable by the Purchaser whether due or not.
- e) Interest shall be payable on all overdue amounts at the prime overdraft rate (% per annum compounded monthly) of the Seller's bank.

Delivery

- a) Unless a delivery date is expressly agreed in writing by the Seller, the Seller shall incur no liability for delivery after any predicted delivery date or delivery date requested by the Purchaser.
- b) The seller shall not be liable for non-delivery or late delivery viz-a-viz an agreed delivery date if such non-delivery or late delivery is due to viz major or any circumstances beyond the reasonable control of the Seller.
- c) Unless otherwise agreed in writing by the Seller, goods shall be deemed to have been delivered to the Purchaser upon despatch from the Seller's premises or upon loading on to the carrier's vehicle, whichever occurs first.
- d) Risk in and to the goods shall pass to the Purchaser on delivery as defined above.
- e) The offloading of goods at any delivery point specified by the Purchaser shall be the responsibility of the Purchaser and shall be performed at its cost.

Claims

- a) Where the Seller does not itself transport the goods the Seller accepts no liability for goods damaged or lost in transit or for any loss or damage caused thereby to the Purchaser.
- b) Goods shall be deemed to have been despatched from the Seller's premises in good order and condition unless the Purchaser proves the contrary.
- c) The Purchaser shall have no claim for short delivery unless a written claim is made to the Seller within 7 days of the date of delivery and the goods in respect of which the claim is made are preserved intact for at least 14 days to allow for inspection and full details of the claim are provided and copies of the relevant delivery documents are provided to the Seller. Any breach of these conditions shall disentitle the Purchaser from making any claim. If short delivery is proven the Purchaser's sole right shall be a pro rata reduction in the price payable for the goods.
- d) The Seller shall be exempted from and shall not be liable under any circumstances whatsoever for any indirect or consequential damages of any nature or any loss of profit which the Purchaser may suffer as a result of any breach by the Seller of any of its obligations or arising out of the use of the goods whether or not attributable to any negligence on the part of the Seller or its servants or agents.
- e) The Seller's liability in respect of any claim based on defective goods shall be limited to an obligation to replace such goods as against return of the defective goods if available.

Ownership

- a) Notwithstanding the delivery of any goods to the Purchaser ownership thereof shall not pass until the Seller has received payment of the full purchase price.

Termination

- a) The Seller reserves the right to cancel any contract with the Purchaser should its fulfilment be delayed or rendered more onerous to the Seller or rendered impossible by war, invasion, insurrection, riot, order of any Government, municipal or civil authorities, breakdown of plant, equipment or machinery, accidents, labour disputes, boycotts, economic sanctions or by any other cause beyond the reasonable control of the Seller and/or the Seller's suppliers. The Purchaser agrees that the Seller shall have no responsibility or liability under or arising out of the contract in the event of notice of cancellation being given by the

Seller under this clause.

8) C.I.F. Sales

- a) The Seller shall arrange marine insurance in respect of C.I.F. sales on the terms of the prevailing London Institute Cargo Clauses (All Risks) and may at its option effect war risk insurance but shall not be obliged to effect any other insurance. The Seller shall not be responsible for any damage or loss to the goods not covered by the aforementioned insurance. Any variation in freight charges as provided for in the Sellers quotation shall be for the Purchaser's account.

9) Exchange Rate

- a) In the event of there being any changes in the ruling rates of exchange in relation to the Rand and any other currencies from those ruling on the date of the order, order acknowledgement and the date of completion of delivery of the goods ordered, then Seller shall be entitled to adjust the total price payable in respect of such goods by such amount as shall be necessary to compensate the Seller for any such change in the bank exchange rate.

10) Specification and Warranties

- a) When no or incomplete specifications are submitted with the Purchaser's order, goods supplied shall conform to the Seller's standard specifications.
- b) Subject to any express warranty or guarantee given by the Seller in writing, the Purchaser agrees:
 - i) that no warranty or guarantee whether express or implied against latent defects or in respect of the fitness of the goods for any particular purpose has been given by the Seller, whether or not that purpose is known to the Seller.
 - ii) that any advice given by the Seller or any of its employees as the use to which the goods may be put, is given without prejudice and shall not give rise to a claim of whatever nature against the Seller.
 - iii) to indemnify the Seller, as it hereby does, against all and any claims of whatever nature which may be against the Seller by any person arising out of the use of the goods.
 - iv) that no representations have been made by the Seller or any of its employees in respect of the fitness of the goods for any particular purpose and that no representation of whatever nature which may be made by the Seller or any of its employees shall be binding unless reduced to writing and signed by a duly authorised representative of the Seller.

11) Drum Charges and Returns

- a) When goods are consigned in or on returnable containers, drums, spools, boxes, grates, bags, packaging or the like, any deposits or charges raised and invoiced in respect of such returnable containers shall be due and payable by the Purchaser at the same time as payment is due for the goods so consigned. Returnable empties shall be consigned, carriage paid or carriage forward, as agreed as in respect of each order, to the works from which they were originally despatched, and prompt notification of such consignment shall be sent to the Seller. Upon receipt at the works of such returned empties in good condition, the Seller will credit the Purchaser (or refund the Purchaser, on request) with the full amount deposited or paid thereon by him.

12) Handling Charges

- a) A handling charge of 10 % of the invoice price shall be payable by the Purchaser to the Seller in respect of any goods returned to Seller by agreement with the Seller, for any reason not due to the fault of the Seller.

13) Permits

- a) The Purchaser shall be responsible for obtaining all import and export permits required in respect of the goods at its expense. The Seller shall not be obliged to manufacture or supply any goods in the absence of any such permits having been obtained.

14) Cession

- a) The Purchaser may not cede or make over any of its rights under any contract with the Seller without the Seller's prior written consent.

15) Governing Law

- a) The contract between the Seller and the Purchaser shall be governed by and construed in accordance with the provisions of South African Law and shall be enforceable in the courts of the Republic of South Africa.

16) Jurisdiction

- a) The Purchaser agrees that the Seller shall be entitled at the option to institute any legal proceedings which might arise out of or in connection with any contract between the parties, in any Magistrates Court in the Republic of South Africa having jurisdiction in respect of the purchase notwithstanding that the claim or value of the matter in dispute might exceed the jurisdiction of such Magistrate's Court.

17) Costs

- a) If the Seller instructs its attorneys with regard to any claim against the Purchaser, the Purchaser shall be obliged to pay all such attorneys costs as between attorney and own client, including collection commission.

18) General

- a) No purported agreed cancellation of any contract between the parties shall be valid unless in writing and signed by the Seller.
- b) The failure of the Seller at any time to require performance of any provision of these conditions shall not affect the right of the Seller to require performance of that provision or of any other provision in the future. No waiver by the Seller with respect to a breach of any provision of these conditions shall be construed as a waiver with respect to any continuing or subsequent breach of these conditions, or as a waiver of any other right under these conditions.